

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

Crl.MC.No. 3799 of 2014 ()

**IN CC 235/2012 of J.M.F.C.-I, TRIVANDRUM
CRIME NO. 501/2011 OF SREEKARIYAM POLICE STATION , THIRUVANANTHAPURAM**

PETITIONER(S)/ACCUSED 1-5:

- 1. MT.ANEES, AGED 22 YEARS
S/O SULAIMAN, SAFIAS MANKAVU, THALIKULANGARA
VALIYANADU VILLAGE, KOZHIKODE**
- 2. V. LIJEESH, AGED 23 YEARS
S/O KANNARAN, VETTIYAMKALLI VEEDU, KARAYAKO VILLAGE
VADAKARA TALUK, KOZHIKODE**
- 3. CHRIS GEORGE TOMS, AGED 22 YEARS
S/O GEROGE THOMAS, JESUS BHAVAN
HOUSE NO 6/516 KSHB COLONY, MALAPARAMBA
KOZHIKODE DISTRICT**
- 4. GEORGE THOMAS, AGED 22 YEARS
S/O THOMAS CHIRAYIL, THITTAMEL CHIRAYIL HOUSE
THITTAMEL, CHENGANNOOR TALUK, ALAPPUZHA DISTRICT**
- 5. DILSHAN, AGED 22 YEARS
S/O VEERANKUTTY, ASANILAYAM VEEDU, KIZHISSERI
KUZHIMANNA VILLAGE, MALAPPURAM DISTRICT**
- 6. MUHAMMED RASHAD,
S/O MUHAMMED MARHABI HOUSE, KANNADIKULAM, CHERUVANNOOR
KOLATHARA VILLAGE, KOZHIKODE DISTRICT**

BY ADV. SRI.G.SUDHEER

RESPONDENT(S)/STATE & DEFACTO COMPLAIANT:

- 1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM, KOCHI 682031**
- 2. FIJAZ REHMAN,
S/O FIHAR, KACHERI VALAPPIL HOUSE, THALAKKULATHU WARD
THALAKKULATHU VILLAGE, KOZHIKODE DISTRICT 675004**

**R2 BY ADV. SRI.S.K.VINOD
R BY PUBLIC PROSECUTOR**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 31-03-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 3799 of 2014 ()

APPENDIX

PETITIONER(S)' EXHIBITS

- | | |
|-------------------|--|
| ANNEXURE A | TRUE COPY OF THE FIR IN CIRME NO 501/2011 OF
SREEKARIYAM POLICE STATION DATED 04-07-2011 |
| ANNEXURE B | TRUE COPY OF THE FINAL REPORT SUBMITTED BY THE SUB
INSPECTOR OF POLICE, SREEKARIYAM POLICE STATION
BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT I,
THIRUVANANTHAPRUAM |
| ANNEXURE C | AFFIDAVIT SWORN BY THE 2ND RESPONDENT/ DEFACTO
COMPLAINANT SIGNED BEFORE THE NOTARY PUBLIC DATED
23-06-2014 |

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

PA TO JUDGE
sab

P.UBAID, J.

Crl. M.C No. 3799 of 2014

Dated this the 31st day of March, 2015.

O R D E R

The petitioners herein are the five accused in C.C No.235 of 2012 of the Judicial First Class Magistrate Court-I, Thiruvananthapuram. The alleged incident that led to the registration of the crime under Sections 143, 147, 148, 149, 452, 342, 323, 326 and 427 of IPC happened in connection with some fight between two student factions within the campus. The petitioners now seek orders quashing the prosecution against them on the ground of amicable settlement of the dispute between the parties. The report submitted by the Sub Inspector of Police, Sreekariyam Police Station shows that the police has registered about 45 crimes in connection with different instances of such student fight in the campus, and that the first petitioner herein is involved in so many crimes. It is also reported that some such cases are still pending against the first petitioner. In the present situation I find that orders quashing the prosecution as against the others will definitely

affect the prosecution that will proceed against the first petitioner. It is true that orders quashing a prosecution in part is possible under the law. But if such an order will adversely affect the prosecution against the others, such a course cannot be resorted to by the High Court under Section 482 Cr.P.C. In such cases the accused will have to face trial. In the present circumstances where the alleged incident is only one in the series of incidents of student fight within the campus, and the first petitioner is involved in some other crimes, it would be inappropriate to quash the prosecution under Section 482 Cr.P.C. The learned counsel for the petitioner now makes a submission that the trial court may be directed to exempt the petitioners from personal appearance after the examination of the every material witnesses. This request will have to be considered by the trial court. It is submitted that the petitioners are well placed now with different jobs at different parts of the country. If so, they may find it difficult to take part in the trial process on all posting dates. This can be considered by the learned Magistrate, and after the examination of the material witnesses, can be granted by the learned Magistrate. It is submitted that the

trial court has already framed charge and proceeded to examine the material witnesses. The petitioner's request will be considered by the learned Magistrate, and appropriate orders will be passed. It is appropriate that the trial process be expedited without any delay in the present circumstances where the different petitioners are settled at different places with job or otherwise.

In the result, this petition is disposed of as follows:

- a. The request of the petitioners to quash the prosecution stands disallowed.
- b. The request of the petitioners for exemption from personal appearance will definitely be considered appropriately by the learned Magistrate after the examination of the material witnesses.
- c. The learned magistrate will expedite the trial process and dispose of the case at the earliest.

Sd/-

P.UBAID,
JUDGE