

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

MONDAY, THE 10TH DAY OF AUGUST 2015/19TH SRAVANA, 1937

CrI.MC.No. 5031 of 2015 ()

CRIME NO. 1904/2015 OF KALADY POLICE STATION, ERNAKULAM DISTRICT

PETITIONER/ACCUSED :

THOMSON
AGED 45, S/O.MATHEW, KAIPRAMBADAN HOUSE,
MANICKAMANGALAM KARA, MATTOOR VILLAGE, KALADY,
ERNAKULAM DISTRICT.

BY ADV. SRI.P.SHAIJAN JOSEPH

RESPONDENTS/COMPLAINANT :

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- 1. SUB INSPECTOR OF POLICE**
KALADY POLICE STATION
REP. BY PUBLIC PROSECUTOR, DISTRICT COURT
ERNAKULAM-682 031.
 - 2. MARTIN,**
AGED 38, S/O.PORINJU,
PANJIKARAN HOUSE, ERAVATHOOR
KAKKULASSERY VILLAGE, MALA,
THRISSUR DISTRICT-680 732.
 - 3. PRASAD,**
AGED 40, S/O.VILASINI,
PULINGAPILLY HOUSE, NEELESWARAM KARA
KALADY VILLAGE, NEELESWARAM P.O., ALUVA TALUK
ERNAKULAM DISTRICT-683 574.
 - 4. SAJEEV,**
AGED 43, S/O.AYYAPPAN, MUKKIL HOUSE, KONUR
NALUKETTU P.O., MURINGOOR CHEKKUMURY VILLAGE
MUKUNDAPURAM TALUK-680 308.
 - 5. SIJU K.S.,**
AGED 35, S/O.SUBRAMANYAN,
KUMBALAMPARAMBIL HOUSE, MUPPATHADAM KARA,
KADUNGALLOOR VILLAGE, MUPPATHADOM P.O.,
NORTH PARAVOOR TALUK, ERNAKULAM DISTRICT-683 110.

***ADDL. R6 & R7 IMPEADED**

***ADDL.R6. BABU THOMAS
AGED 46, POONOLI HOUSE
PIRAROOR P.O., MATTOOR VILLAGE
KALADY, ALUVA TALUK,
ERNAKULAM DISTRICT- 682 101.**

***ADDL.R7. ABY
AGED 49, THALIYADIL HOUSE
MYTHRIPURAM ROAD, THRIKKAKKARA P.O.,
VAZHAKKALA VILLAGE, KANAYANNOOR TALUK
ERNAKULAM DISTRICT – 682 105.**

***ADDL. R6 & R7 ARE IMPEADED AS PER ORDER IN CRL.M.A. NO. 7804/2015
DATED 10/08/2015.**

**R1 BY PUBLIC PROSECUTOR SRI. DHANESH MATHEW MANJOORAN
R2 TO R5, ADDL R6 & R7 BY ADV. SRI.LAL K.JOSEPH**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 10-08-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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...3/-

Crl.MC.No. 5031 of 2015 ()

APPENDIX

PETITIONERS' ANNEXURES :

- ANNEXURE A1 :** TRUE COPY OF FIR IN CRIME NO.1904/2015 OF KALADY POLICE STATION.
- ANNEXURE A2 :** TRUE COPY OF SEARCH LIST DATED 4-7-2015 IN CRIME NO.1904/2015 OF KALADY POLICE STATION.
- ANNEXURE A3 :** TRUE COPY OF AFFIDAVIT DATED 28-7-2015 OF 2ND RESPONDENT.
- ANNEXURE A4 :** TRUE COPY OF AFFIDAVIT DATED 28-7-2015 OF 3RD RESPONDENT.
- ANNEXURE A5:** TRUE COPY OF AFFIDAVIT DATED 28-7-2015 OF 4TH RESPONDENT.
- ANNEXURE A6 :** TRUE COPY OF AFFIDAVIT DATED 28-7-2015 OF 5TH RESPONDENT.
- ANNEXURE A7 :** COPY OF AFFIDAVIT DATED 7-8-15 OF 6TH RESPONDENT.
- ANNEXURE A8 :** COPY OF REGISTRATION CERTIFICATE OF VEHICLE BEARING REG.NO. KL-43-1188.
- ANNEXURE A9 :** COPY OF AFFIDAVIT DATED 7-8-15 OF 7TH RESPONDENT.

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

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ALEXANDER THOMAS, J.

Crl.M.C.No.5031 Of 2015

Dated this the 10th day of August, 2015.

ORDER

The petitioner is the accused in impugned Anx-A1 FIR in Crime No.1904/2015 of Kalady Police Station, registered for offences alleged under Secs.406, 420, 467 & 468 IPC and Sec.17 of the Kerala Money Lenders Act and Sec.3 of the Kerala Prohibition of Charging Exorbitant Interest Act, 2012. The prosecution case is that the 1st respondent got information during patrol duty that the accused is conducting unauthorised money lending business and chitty business and on the basis of the said information, the respondent searched the house of the accused and seized 3 registration certificates, one blank cheque leaf, one car, two motor cycles, one autorickshaw and Rs.87,000/-. Now, it is submitted that the matter has been settled between the parties and that the respondents 2 to 5 (defacto complainants) have sworn to Anx-A3 to A6 affidavits stating that the matter has been settled and that they have no objection in quashing the impugned criminal proceedings pending against the petitioner. Moreover, the persons mentioned in Anx-A2 mahazar, whose articles were seized, who are impleaded as additional

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respondents 6 & 7, have also filed Anx-A7 & A9 affidavits stating that they have no grievance against the petitioner and that they have no objection in quashing the impugned criminal proceedings pending against the petitioner. It is in the light of these aspects that the petitioner has filed this Crl.M.C seeking the prayer for quashment of the impugned criminal proceedings.

2. In a catena of decisions, the Apex Court has held that, in appropriate cases involving even non-compoundable offences, the High Court can quash prosecution by exercise of the powers under Sec.482 of the Cr.P.C., if the parties have really settled the whole dispute or if the continuance of the prosecution will not serve any purpose. Here, this Court finds a real case of settlement between the parties and it is also found that continuance of the prosecution in such a situation will not serve any purpose other than wasting the precious time of the court, when the case ultimately comes before the court. On a perusal of the petition and on a close scrutiny of the investigation materials on record and the affidavit of settlement and taking into account the attendant facts and circumstances of this case, this Court is of the considered opinion that the legal principles laid down by the Apex Court in the cases as in *Gian Singh v. State of Punjab* reported in 2013 (1) SCC

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(Cri) 160 = (2012) 10 SCC 303 and Narinder Singh and others v. State of Punjab and anr. reported in (2014) 6 SCC 466, more particularly paragraph 29 thereof, could be applied in this case to consider the prayer for quashment.

3. Accordingly, it is ordered in the interest of justice that the impugned Anx-A1 FIR in Crime No.1904/2015 of Kalady Police Station and all further proceedings arising therefrom pending against the petitioner herein stand quashed under Sec.482 of the Code of Criminal Procedure.

With these observations and directions, this Crl.M.C stands finally disposed of.

ALEXANDER THOMAS,
Judge.

bkn/-