

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

FRIDAY, THE 7TH DAY OF AUGUST 2015/16TH SRAVANA, 1937

Crl.MC.No. 5070 of 2015

**CC 2201/2013 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, VADAKARA
CRIME NO. 1122/2008 OF VATAKARA POLICE STATION, KOZHIKODE**
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PETITIONER(S)/ACCUSED NO.1 TO 4:

- 1. FAISAL, AGED 27 YEARS,
S/O.MOIDU MUSALIAR, KODAKKATT HOUSE, THIRUVALLUR,
CHANIYAMKADAVU, VATAKARA THALUK.**
- 2. ISMAIL, AGED 26 YEARS,
S/O.MOIDU, KUNDAKADAVATH HOUSE, THIRUVALLUR,
CHANIYAMKADAVU, VATAKARA THALUK.**
- 3. SALAM, AGED 26 YEARS,
S/O.KUNHABDULLA, KUNDAKADAVATH HOUSE, THIRUVALLUR,
CHANIYAMKADAVU, VATAKARA THALUK.**
- 4. RAYEES, AGED 26 YEARS,
S/O.AHAMMAD HAJI, NEDUMANIL HOUSE, THIRUVALLUR,
CHANIYAMKADAVU, VATAKARA THALUK.**

BY ADV. SRI.ZUBAIR PULIKKOOL

RESPONDENT(S)/COMPLAINANT:

- 1. MINHAJ, AGED 25 YEARS,
S/O.MOOSSA, KUYMANMANIL HOUSE, THIRUVALLUR,
CHANIYAMKADAVU, VATAKARA THALUK, PIN - 673 101.**
- 2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, PIN - 682 031.**

**R1 BY ADV. SMT. P.A.ANEESHA
R2 BY PUBLIC PROSECUTOR SRI.GITHESH R.**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
07-08-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEXURE 1- TRUE COPY OF FINAL REPORT IN CRIME 1122/2008 OF VATAKARA
POLICE STATION.**

**ANNEXURE 2- TRUE COPY OF THE JUDGMENT IN C.C.374/09 OF J.F.C.M.COURT,
VATAKARA.**

ANNEXURE 3- SWORN AFFIDAVIT OF 1ST RESPONDENT.

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msv/

ALEXANDER THOMAS, J.

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Crl.M.C No.5070 of 2015

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Dated this the 7th day of August, 2015

ORDER

The petitioners seek orders quashing the F.I.R and further proceedings in Crime No.1122/2008 of Vatakara Police Station, registered under Sections 143, 147, 148, 341, 323, 324, r/w 149 of IPC. Orders are sought on the ground of amicable settlement of the whole dispute between the accused and the de facto complainant out of court. The de facto complainant is the 1st respondent in this proceeding brought under Section 482 of the Code of Criminal Procedure. He has filed affidavit to the effect that he has settled the whole dispute with the accused and he has no objection for quashment of the impugned criminal proceedings pending against the petitioners. On a perusal of Anx.2 judgment, it can also be seen that the trial court has conclusively held that there is no evidence to connect the 5th accused with the impugned charges and acquitted the said co-accused.

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 continuance of 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 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 (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.

Accordingly, the impugned F.I.R and further proceedings arising out of crime No.1122/2008 of Vatakara Police Station, including all further proceedings arising out of C.C.No.2201/2013

on the file of the Judicial First Class Magistrate Court, Vatakara pending against the petitioners herein will stand quashed under Section 482 of the Code of Criminal Procedure.

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

sd/-

sab

ALEXANDER THOMAS, JUDGE