

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

Crl.MC.No. 5104 of 2015

CC 768/2014 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, PIRAVOM.
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PETITIONER(S)/ACCUSED NOS.1 TO 6:

1. BIYAS, AGED 33 YEARS,
S/O. ALEXANDER, VELOOR HOUSE,
ONAKKOOR KARA, ONAKKOOR VILLAGE,
ERNAKULAM DISTRICT.
2. BINOJ M.GEORGE, AGED 43 YEARS,
S/O. GEORGE, MANNATHIKKULATHIL HOUSE,
PERIYAPPURAM KARA, ONAKKOOR VILLAGE,
ERNAKULAM DISTRICT.
3. SABU, AGED 44 YEARS, S/O. VARKEY,
KOLLARAYIL HOUSE, ONAKKOOR KARA,
ONAKKOOR VILLAGE, ERNAKULAM DISTRICT.
4. BINEESH, AGED 30 YEARS, S/O.THAMPI,
KOLLARAYIL HOUSE, PERIYAPPURAM KARA,
ONAKKOOR VILLAGE, ERNAKULAM DISTRICT.
5. JOY, AGED 44 YEARS, S/O. KUNJAPPAN,
KOCHU PYTTATTU HOUSE, ANCHALPETTY KARA,
ONAKKOOR VILLAGE, ERNAKULAM DISTRICT.
6. BOBBY, AGED 36 YEARS, S/O. POULOSE,
MALIYEKKAL HOUSE, PERIYAPPURAM BHAGOM,
ONAKKOOR KARA, ONAKKOOR VILLAGE,
ERNAKULAM DISTRICT.

BY ADV. SRI.SUNIL JACOB

RESPONDENTS 1 TO 3:

1. FR. BOBBY VARGHESE, AGED 40 YEARS,
S/O. VARGHESE, KUTTAKKATTUTHOTTATHIL HOUSE,
PIRAVOM P.O., PIRAVOM VILLAGE,
MUVATTUPUZHA TALUK, ERNAKULAM DISTRICT - 686 664.

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2. JOHN @ JOHNY, AGED 60 YEARS,
S/O. ULAHANNAN, KALLATTU KUZHIYIL HOUSE,
KAKKOOR KARA, THIRUMARADY VILLAGE - 686 662.
3. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.

R1 & R2 BY ADV. SRI.IEANS.C.CHAMAKKALA
R3 BY PUBLIC PROSECUTOR SRI.R.GITHESH

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 10-08-2015 ALONG WITH CRMC.5106/2015 & CONNECTED
CASES, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

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APPENDIX

PETITIONER(S)' ANNEXURES:

- ANNEXURE A1 : CERTIFIED COPY OF THE FIS.**
- ANNEXURE A2 : CERTIFIED COPY OF THE FIR.**
- ANNEXURE A3 : CERTIFIED COPY OF THE CHARGE SHEET.**
- ANNEXURE A4 : AFFIDAVIT OF THE 1ST RESPONDENT.**
- ANNEXURE A5 : AFFIDAVIT OF THE 2ND RESPONDENT.**

RESPONDENTS' ANNEXURES: NIL.

//TRUE COPY//

P.S. TO JUDGE

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ALEXANDER THOMAS, J.

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Crl.M.C.Nos.5104, 5106, 5108, 5123 & 5127 of 2015

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Dated this the 10th day of August, 2015

ORDER

The petitioners in Crl.M.C.No.5104/2015 are accused Nos.1 to 6 in Calendar Case, C.C.No.768/2014 on the file of the Judicial First Class Magistrate's Court, Piravom. The petitioners in Crl.M.C.No. 5106/2015 are accused Nos.1 to 9 in Calendar Case, C.C.No. 188/2014 on the file Judicial First Class Magistrate's Court, Koothattukulam. The petitioners in Crl.M.C.No.5108/2015 are accused 1 to 6 in Calendar Case, C.C.No. 971/2014 on the file of the Judicial First Class Magistrate's Court, Piravom. The petitioners in Crl.M.C.No.5123/2015 are accused Nos.1 to 10 in Calendar Case, C.C.No. 216/2014 on the file of the Judicial First Class Magistrate's Court, Koothattukulam. The petitioners in Crl.M.C.No.5127/2015 are accused Nos.1 to 3 in Calendar Case, C.C.No. 1177/2014 on the file of the Judicial First Class Magistrate's Court, Piravom. The 1st petitioner Crl.M.C.No.5106/2015 is the defacto complainant in Crl.M.C.No.5123/2015. The Calendar Cases

involved in Crl.M.C.No. 5104/2015 and Crl.M.C.No. 5127/2014 are case and counter case. The Calendar Cases involved Crl.M.C.No.5106/2015 and Crl.M.C.No.5123/2015 are case and counter case. The impugned criminal proceedings in all these five Criminal Miscellaneous Cases arose out of certain untoward incidents which are said to have happened due to factional fights between the rival Jacobite and Orthodox factions relating to the Church in question. In all these cases the respective defacto complainants have filed separate affidavits stating that they are settled the entire disputes with the respective petitioners/accused and they have no objection for quashment of the impugned proceedings. It is in the light of these aspects that the petitioners have preferred the instant Criminal Miscellaneous Cases with the prayer to quash the impugned criminal proceedings against them.

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 (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, it is ordered in the interest of justice that:-

- (i) In Crl.M.C.No.5104/2015 all further proceedings arising out of C.C.No. 768/2014 on the file of the Judicial First Class Magistrate's Court, Piravom, pending against the petitioners therein stand quashed.
- (ii) In Crl.M.C.No.51064/2015 all further proceedings arising out of C.C.No. 188/2014 on the file of the Judicial First Class Magistrate's Court, Koothattukulam pending against the petitioners therein stand quashed.
- (iii) In Crl.M.C.No.5108/2015 all further proceedings arising out of C.C.No. 971/2014 on the file of the Judicial First Class Magistrate's Court, Piravom, pending against the petitioners therein stand quashed.
- (iv) In Crl.M.C.No.5123/2015 all further proceedings arising out of C.C.No. 216/2014 on the file of the Judicial First Class Magistrate's Court, Koothattukulam pending against the petitioners therein stand quashed.
- (v) In Crl.M.C.No.5127/2015 all further proceedings arising out of C.C.No.

1177/2014 on the file of the Judicial First Class Magistrate's Court, Piravom pending against the petitioners therein are quashed.

With these observations and directions these Criminal Miscellaneous Cases stand finally disposed of.

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Sd/-
ALEXANDER THOMAS, JUDGE

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P.S. to Judge