

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. 5142 of 2015

C.C.NO.162/2011 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, ALATHUR

CRIME NO.64/2011 OF NEMMARA POLICE STATION

PETITIONER(S)/ACCUSED :

1. JAYAPRAKASH @ RAJU, AGED 34 YEARS,
S/O.KRISHNANKUTTY, CHENNAKODE VEEDU, PUZHAKKAL THARA,
KANIMANGALAM, NEMMARA, CHITTUR TALUK,
PALAKKAD DISTRICT.
2. MURALEEDHARAN, AGED 39 YEARS,
S/O.MADHAVAN, CHENNAKODE VEEDU, PUZHAKKAL THARA,
KANIMANGALAM, NEMMARA, CHITTUR TALUK,
PALAKKAD DISTRICT.
3. GIREESH, AGED 38 YEARS,
S/O.NARAYANAN, CHENNAKODE VEEDU, KANIMANGALAM,
NEMMARA, CHITTUR TALUK, PALAKKAD DISTRICT.
4. BABU, AGED 30 YEARS,
S/O.PONNU, CHENNAKODE VEEDU, KANIMANGALAM,
NEMMARA, CHITTUR TALUK, PALAKKAD DISTRICT.

BY ADV. SRI.BABY MATHEW

RESPONDENT(S) :

1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
2. SUB INSPECTOR OF POLICE,
NENMARA POLICE STATION, PALAKKAD DISTRICT.
3. SUJITH, AGED 24 YEARS,
S/O.SUNILKUMAR, BINUNIVAS, VINAYAKA NAGAR,
KANIMANGALAM, NEMMARA, CHITTUR TALUK,
PALAKKAD DISTRICT.

CrI.MC.No. 5142 of 2015

**4. VISHNU, AGED 23 YEARS,
S/O.SRINIVASAN, VISHNUKRIPA, KANIMANGALAM,
NEMMARA, CHITTUR TALUK, PALAKKAD DISTRICT.**

**R1 & R2 BY PUBLIC PROSECUTOR SRI.R.GITHESH
R3 & R4 BY ADV. SRI.S.KRISHNA KUMAR (MANGALAM)**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 10-08-2015, ALONG WITH CrI.MC.No.5164 OF 2015, THE COURT
ON THE SAME DAY PASSED THE FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' ANNEXURES :

**ANNEXURE I: TRUE COPY OF THE NAME OF THE FIR DATED 23.02.2011 IN
CRIME NO.64/2011 OF NEMMARA POLICE STATION.**

**ANNEXURE II: TRUE COPY OF THE FINAL REPORT DATED 17.03.2011 IN
CRIME NO.64/2011 OF NEMMARA POLICE STATION.**

**ANNEXURE III: TRUE COPY OF THE AFFIDAVIT DATED 20.06.2015 OF
THE 3RD RESPONDENT /DEFACTO COMPLAINANT.**

**ANNEXURE IV: TRUE COPY OF THE AFFIDAVIT DATED 20.06.2015 OF
THE 4TH RESPONDENT.**

RESPONDENT(S)' ANNEXURES :

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msd.

ALEXANDER THOMAS, J.

=====

Crl.M.C.No. 5142 & 5164 of 2015

=====

Dated this the 10th day of August, 2015

ORDER

The petitioners in Crl.M.C.No.5142/ are accused Nos.1 to 4 in C.C.No.164/2011 on the file of the Judicial First Class Magistrate's Court, Alathur, arising out of Crime No.64/2011 of Nenmara Police Station, registered for offences under Sec.143, 147, 148, 341, 324 and 149 of the I.P.C., at the instance of the 3rd respondent therein. The petitioners in Crl.M.C.No. 5164/2015 are accused Nos.1 to 6 in C.C.No. 157/2011 on the file of the Judicial First Class Magistrate's Court, Alathur in Crime No. 63/2011 of Nenmara Police Station, at the instance of the 3rd respondent therein, registered for offences under Sec. 143, 147, 148, 341, 324 and 149 I.P.C. The petitioners 1 and 2 in Crl.M.C.No. 5142/2015 are respondents 3 and 4 in Crl.M.C.No.5164/2015. Similarly, the 3rd petitioner in Crl.M.C.No.5164/2015 is the 4th respondent in Crl.M.C.No.5142/2015. It is submitted by both sides that the above referred cases are case and counter case. It is stated that now the

entire disputes between the contesting respondents in these CrI.M.Cs. have been settled amicably and that affidavits of the respective parties have also been filed in these cases, wherein it is stated that they have no objection for quashment of the impugned criminal proceedings pending against their opposite parties in the aforestated crimes. 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.5142/2015 the impugned Anx.II final report/charge sheet filed in Crime No.64/2011 of Nenmara Police Station, which has led to the institution of C.C.No.162/2011 on the file of the Judicial First Class Magistrate's Court, Alathur, and all further proceedings arising therefrom pending against the petitioners therein stand quashed.
- (i) In Crl.M.C.No.5164/2015 the impugned Anx.II final report/charge sheet filed in Crime No.63/2011 of Nenmara Police Station, which has led to the institution of C.C.No.157/2011 on the file of the Judicial First Class Magistrate's Court, Alathur, and all further proceedings arising therefrom pending against the petitioners therein stand quashed.

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

sd/-
ALEXANDER THOMAS, JUDGE

sdk+
///True copy///

P.S. to Judge