

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

WEDNESDAY, THE 12TH DAY OF AUGUST 2015/21ST SRAVANA, 1937

Crl.MC.No. 5270 of 2015 ()

**CC.NO. 79/2015 OF JUDICIAL FIRST CLASS MAGISTRATE COURT -III,KOZHIKODE
CRIME NO. 212/2011 OF KAKKUR POLICE STATION , KOZHIKODE DISTRICT**

PETITIONER/ACCUSED:-

**SABITH, S/O.KUTTY MAMMY, AGED 33 YEARS,
THAZHATTUTHAZHAM HOUSE, PUNATHIL THAZHAM,
CHELANUR, KANNANKARA P.O., KOZHIKODE.**

**BY ADVS.SRI.SANTHARAM.P
SMT.REKHA ARAVIND
SMT.T.S.REMYA**

RESPONDENTS/DEFACTO COMPLAINANT & STATE :

- 1. BAIJU, S/O.SRINIVASAN,AGED 36 YEARS,
KALAKANDATHIL HOUSE, PATTARPALAM,
CHELANNUR, KOZHIKODE. PIN-673 001,**
- 2. S.H.O.,
KAKKUR POLICE STATION, KOZHIKODE DIST - 673 001.**
- 3. STATE OF KERALA,
REPRESENTED BY ITS PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, KOCHI - 31.**

R2 & R3 BY PUBLIC PROSECUTOR SRI.GITHESH.R

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 12-08-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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Crl.MC.No. 5270 of 2015 ()

APPENDIX

PETITIONER(S)' ANNEXURES:

ANNEX I. TRUE COPY OF THE F.I.R DATED 04.11.2011 IN CRIME NO.212/2011 OF KAKKUR POLICE, KOZHIKODE.

ANNEX II. TRUE COPY OF THE FINAL REPORT AND CHARGE IN CRIME NO.212/2011 DATED 12.11.2011 BY THE SUB INSPECTOR OF POLICE, KAKKUR.

ANNEX III. AFFIDAVIT SWORN TO BY THE DE FACTO COMPLAINANT.

RESPONDENT(S)' ANNEXURES: **NIL**

/TRUE COPY/

P.A.TO JUDGE

sts

ALEXANDER THOMAS, J.

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Crl.M.C.No.5270 Of 2015

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Dated this the 12th day of August , 2015

ORDER

The petitioner herein is the accused in the impugned Anx.I FIR in Crime No.212/2011 of Kakkur Police Station, Kozhikode, registered for offences punishable under Secs.323, 427, 506(ii) and 294(b) of IPC, which has led to the institution of Calendar Case, C.C.No.79/2015 on the file of the Judicial First Class Magistrate Court-II, Kozhikode. It is stated that now the entire disputes between the petitioner and the 1st respondent de facto complainant have been settled amicably and that the 1st respondent has sworn to Anx.III affidavit before this Court, wherein it is stated that he has settled the entire disputes with the petitioner and that he has no objection for quashment of the impugned criminal proceedings pending against the petitioner. It is in the light of these aspects that the petitioner has preferred the instant Crl.M.C with the prayer to quash the impugned criminal proceedings against him.

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, it is ordered in the interest of justice that the impugned Anx.I FIR in Crime No.212/2011 of Kakkur Police Station, which has led to the institution of C.C.No.79/2015 on the file of the Judicial First Class Magistrate Court-III, Kozhikode and all further proceedings

arising therefrom pending against the petitioner stands quashed.

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

Sd/-
ALEXANDER THOMAS, JUDGE

AVS