

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 18TH DAY OF AUGUST 2015/27TH SRAVANA, 1937

Crl.MC.No. 5308 of 2015

C.P.NO.34/2015 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-II, CHERTHALA

CRIME NO. 147/2014 OF POOCHACKAL POLICE STATION , ALAPPUZHA DISTRICT

PETITIONER(S)/ACCUSED NOS.1 & 2 :

- 1. KAIZ, AGED 25 YEARS,
S/O.ABDUL MAJEED, UBAISE MANZIL, TRICHATTUKULAM.P.O.,
PANAVALLY, CHERTHALA, ALAPPUZHA DISTRICT.**
- 2. RASHID @ SHIYAS, AGED 24 YEARS,
S/O.MUHAMMED, NIKARTHIL HOUSE, TRICHATTUKULAM.P.O.,
PANAVALLY, CHERTHALA, ALAPPUZHA DISTRICT.**

**BY ADVS.SRI.ABDUL JALEEL.A
SMT.M.A.SULFIA**

RESPONDENT(S)/STATE AND DEFACTO COMPLAINANTS :

- 1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-682 031.**
- 2. THE SUB INSPECTOR OF POLICE,
POOCHACKAL POLICE STATION, CHERTHALA,
ALAPPUZHA DISTRICT.**
- 3. AJMAL,
S/O.SAVAD, RESIDING AT NIKARTHIL HOUSE,
NEAR MAKAM SCHOOL, TRICHATTUKULAM.P.O., PANAVALLY,
CHERTHALA, ALAPPUZHA DISTRICT.**

**R1 & R2 BY PUBLIC PROSECUTOR SRI.RAJESH VIJAYAN
R3 BY ADV. SMT.P.Y.SHEHEERA**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 18-08-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' ANNEXURES :

- ANNEXURE A1:** CERTIFIED COPY OF THE FIRST INFORMATION REPORT IN C.P.NO.34/15 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-II, CHERTHALA.
- ANNEXURE A2:** CERTIFIED COPY OF THE FINAL REPORT IN C.P.NO.34/15 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-II, CHERTHALA.
- ANNEXURE A3:** AFFIDAVIT SWORN BY 3RD RESPONDENT/DEFACTO COMPLAINANT.

RESPONDENT(S)' ANNEXURES :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

ALEXANDER THOMAS, J.

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Dated this the 18th day of August, 2015.

ORDER

The petitioners are the accused in impugned Anx-A2 final report/charge sheet filed in Crime No.147/2014 of Poochakkal Police Station, registered for offences alleged under Secs.323, 324 & 308 r/w 34 of the IPC, which is now pending as C.P.No.34/2015 on the file of the Judicial First Class Magistrate Court-II, Cherthala. Originally there were three accused in the FIR. But, the final report/charge sheet was filed as against two accused, who are the petitioners herein. The prosecution case is that due to rivalry between the accused and the friend of the defacto complainant, the accused persons assaulted the defacto complainant. Now, it is submitted that the matter has been settled between the petitioners and the 3rd respondent (defacto complainant) and that the 3rd respondent has sworn to Anx-A3 affidavit stating that the matter has been settled and that he has no objection in quashing the impugned criminal proceedings pending against the petitioners. It

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is in the light of these aspects that the petitioners have 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 (Cri) 160 = (2012) 10 SCC 303 and *Narinder Singh and others*

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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-A2 final report/charge sheet filed in Crime No.147/2014 of Poochakkal Police Station, which is now pending as C.P.No.34/2015 on the file of the Judicial First Class Magistrate Court-II, Cherthala, and all further proceedings arising therefrom pending against the petitioners 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/-