

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

MONDAY, THE 17TH DAY OF AUGUST 2015/26TH SRAVANA, 1937

Crl.MC.No. 5345 of 2015

**CC 783/2014 OF CHIF JUDICIAL MAGISTRATE COURT, KASARAGOD.
CRIME NO. 371/2014 OF KASARAGOD POLICE STATION, KASARGOD.**
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PETITIONERS/ACCUSED:

- 1. ABDUL KHADER, AGED 49 YEARS, S/O. HUSSAIN,
ORAVANKARA, NEAR CHANDRAGIRIKOTTA,
CHEMNAD GRAMAM, CGP XXI 437,
KASARAGOD DISTRICT.**
- 2. ABID, AGED 32 YEARS,
S/O. BEERAN, NEAR MADATHIL OLD SCHOOL,
SRAMBIPALLIKKULATHU, CHEMNAD GRAMAM,
CGP XXI 451, KASARAGOD DISTRICT.**
- 3. JASIN, AGED 27 YEARS, S/O. MUHAMMED,
FATHIMA MANZIL, MAKKODU, CHEMNAD GRAMAM,
CGP IX 261, KASARAGOD DISTRICT.**
- 4. THAJUDDIN, AGED 26 YEARS,
S/O. KUNNARUPATH ABDU, MAKKODU,
CHEMNAD GRAMAM, CGP IX 254,
KASARAGOD DISTRICT.**
- 5. ARAFATH, AGED 27 YEARS, S/O. ABDULLAKUNHI,
PALLIPPURAM, CHEMNAD GRAMAM, CGP XI 361,
KASARAGOD DISTRICT.**
- 6. HABEEB B., AGED 28 YEARS, S/O. IBRAHIM,
CHALIYAMKODU, SHAFAVILLA QUARTERS,
CHEMNAD GRAMAM, CGP VIII 276,
KASARAGOD DISTRICT.**
- 7. SALAHU @ SALAM, AGED 22 YEARS,
S/O. ABDHUKHADER, A.M. QUARTERS, MAKKODU,
CHEMNAD GRAMAM, CGP IX 281,
KASARAGOD DISTRICT.**
- 8. KABEER K.A., AGED 24 YEARS, S/O. AHAMMED,
CHALIYAMKODU, NEAR KADAVU, CHEMNAD GRAMAM,
CGP VIII 308, KASARAGOD DISTRICT.**

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9. C.H.S.MUHAMMED SAJID, AGED 23 YEARS,
S/O.SHIHABUDHIN, CHENCHARIKKA, NEAR STORE,
CHEMNAD KALANADU GRAMAM, CHEMNAD GRAMAM,
CGP XIX 631, KASARAGOD DISTRICT.
10. RISWAN P.R., AGED 27 YEARS,
S/O.ABDUL RASAQUE, MUSTHAD MANZIL,
DELI KUNNUMPURAM, CHEMNAD GRAMAM,
CGP IX 432, KASARAGOD DISTRICT.
11. ABDUL MANZOOR G.A., AGED 30 YEARS,
S/O.MUHAMMED KUNHI, FATHIMA MANZIL, MAKKODU,
CHEMNAD GRAMAM, CGP X 317, KASARAGOD DISTRICT.
12. MUHAMMED HASHIM A.M., AGED 23 YEARS,
S/O.ABDULLA A.G., MAKKODU, CHEMNAD GRAMAM,
CGP X 319, KASARAGOD DISTRICT.

BY ADV. SRI.P.K.SUBHASH

RESPONDENT(S)/STATE/DEFACTO COMPLAINANT:

1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.
2. AJITHKUMAR, S/O.NARAYANAN, AGED 32 YEARS,
PALLIPURAM HOUSE, MELPARAMBA,
CHEMNAD VILLAGE, KASARAGOD TALUK,
KASARAGOD DISTRICT - 671 121.
3. JIJINA, W/O.AJITH KUMAR, AGED 20 YEARS,
PALLIPURAM HOUSE, MELPARAMBA,
CHEMNAD VILLAGE, KASARAGOD TALUK,
KASARAGOD DISTRICT - 671 121.

R1 BY PUBLIC PROSECUTOR SMT.P.MAYA
R2 & R3 BY ADV. SRI.A.ARUNKUMAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 17-08-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

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APPENDIX

PETITIONER(S)' ANNEXURES:

- ANNEXURE A1.** CERTIFIED COPY OF THE F.I.R. IN CRIME NO.371 OF 2014 OF KASARAGOD POLICE STATION, KASARAGOD DISTRICT.
- ANNEXURE AII.** CERTIFIED COPY OF THE FINAL REPORT.
- ANNEXURE AIII.** A TRUE COPY OF THE AFFIDAVIT OF THE 2ND RESPONDENT ENDORSING THE FACTUM OF COMPOUNDING OF THE SAID OFFENCES AND THE SETTLEMENT OF THE DISPUTES.
- ANNEXURE AIV.** A TRUE COPY OF THE AFFIDAVIT OF THE 3RD RESPONDENT ENDORSING THE FACTUM OF COMPOUNDING OF THE SAID OFFENCES AND THE SETTLEMENT OF THE DISPUTES.

RESPONDENT(S)' ANNEXURES: NIL

//TRUE COPY//

P.S. TO JUDGE

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ALEXANDER THOMAS, J.

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Dated this the 17th day of August, 2015.

ORDER

The petitioners are the accused Nos.1 to 12 in the impugned Anx-AII Final Report/Charge Sheet filed in Crime No.371/2014 of Kasaragod Police Station, registered for offences alleged under Secs.143, 147, 148, 323, 324, 452 & 427 r/w 149 IPC, which is now pending as C.C.No.783/2014 on the file of the Chief Judicial Magistrate Court, Kasaragod. The prosecution allegation is that the accused persons trespassed into the house of the defacto complainant and attacked him and wrongfully restrained him and thereby committed the offences. Now, it is submitted that the matter has been settled between the petitioners and respondents 2 & 3 (defacto complainant/injured) and that the respondents 2 & 3 have sworn to Anx-AIII & AIV affidavits stating that they have no subsisting grievance against the petitioners and that they have no objection in quashing the impugned criminal proceedings pending against the petitioners. It is in the light of these aspects that the

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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-AII Final Report/Charge Sheet filed in Crime No.371/2014 of Kasaragod Police Station, which is now pending as C.C.No.783/2014 on the file of the Chief Judicial Magistrate Court, Kasaragod 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/-