

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

CrI.MC.No. 5385 of 2015 ()

SC 326/2013 of ADDL. ASSISTANT SESSIONS COURT, NORTH PARAVUR

PETITIONERS/ACCUSED 1 TO 4 :

1. KIRAN SANTO, AGED 22 YEARS,
S/O. SANTO @ CHEEKU, KATTANCHERI HOUSE, KOTHAD KARA,
KORAMBADAM, KADAMAKKUDY VILLAGE, ERNAKULAM DISTRICT.
2. VINDUSHKI CHAND,
S/O. CHANDRAN, THERUMTHARA NIKARTH, KADANAD,
KOTHAD KARA, KADAMAKKUDY VILLGE, ERNAKULAM DISTRICT.
3. VISHNU,
S/O. SURESH, NELLISSERI VEETIL, KORAMBADAM,
KOTHAD KARA, KADAMAKKUDY VILLAGE, ERNAKULAM DISTRICT.
4. JITHU JOSE,
S/O. JOSE, THAIKUDTHIL VEETIL, MATHIRAPPILLY LINE,
VALAM BHGATHU, EDAYAKUNNAM KARA, CHERANALLOOOR VILLAGE,
ERNAKULAM DISTRICT.

BY ADV. SRI.T.P. SANTHOSH KUMAR

RESPONDENTS/STATE AND CW 1 TO 3 :

1. STATE OF KERALA
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
VARAPPUZHA POLICE STATION,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
2. ANU ISSAC,
S/O. ISSAC, KOYILPARAMBIL HOUSE, KANDANAD,
KOTHAD DESOM, KADAMAKKUDY VILLAGE,
ERNAKULAM DISTRICT.
3. HARISH,
S/O. BHASKARAN, VELUTHERI HOUSE, KADANAD,
KOTHAD DESOM, KADAMAKKUDY VILLAGE,
ERNAKULAM DISTRICT.

Crl.MC.No. 5385 of 2015 ()

**4. EVALO GEOUS,
S/O. MARTIN, THATHAMPILLY HOUSE, KADANAD
KOTHAD DESOM, KADAMAKKUDY VILLAGE, ERNAKULAM DISTRICT.**

**R1 BY PUBLIC PROSECUTOR SMT. P. MAYA
R2 TO R4 BY ADV. SRI.G.RANJU MOHAN**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 18-08-2015 ALONG WITH CRL.M.C. 5392/2015, THE COURT ON
THE SAME DAY PASSED THE FOLLOWING:**

bp

APPENDIX

PETITIONER'S ANNEXURES :

- ANNEXURE A1: COPY OF THE CHARGE SHEET IN SC NO. 326/2013 PENDING ON THE FILES OF ADDITIONAL ASSISTANT SESSIONS COURT, NORTH PARUR ARISING OUT OF CRIME NO. 727/2012 OF VARAPUZHA POLICE STATION.
- ANNEXURE A2: AFFIDAVIT DT 9/3/2015 SWORN BY THE R2.
- ANNEXURE A3: AFFIDAVIT DT 9/3/2015 SWORN BY THE R3.
- ANNEXURE A4: AFFIDAVIT DT 9/3/2015 SWORN BY THE R4.

RESPONDENT'S ANNEXURES : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

ALEXANDER THOMAS, J.

Crl.M.C.Nos.5385 & 5392 Of 2015

Dated this the 18th day of August, 2015.

ORDER

The petitioners in Crl.M.C.No.5385/2015 are the accused Nos.1 to 4 in the impugned Anx-A1 final report/charge sheet filed in Crime No.727/2012 of Varappuzha Police Station, registered for offences punishable under Secs.341, 323, 324, 294(b) & 308 r/w 34 of the IPC, which is now pending as S.C.No.326/2013 on the file of the Additional Assistant Sessions Court, North Parur. The petitioners in Crl.M.C.No.5392/2015 are the accused in the impugned Anx-A1 final report/charge sheet filed in Crime No.1080/2012 of Varappuzha Police Station, registered for offences alleged under Secs.341, 324, 323, 506(ii) & 308 r/w 34 IPC, which is now pending as S.C.No.6/2015 on the file of the Additional Assistant Sessions Court, North Parur. Both these cases arose out prior vengeance between the petitioners in both cases. Now, it is submitted that the matter has been settled between the respective

Crl.M.C.Nos.5385 & 5392 Of 2015

parties and the defacto complainants in the respective cases have sworn to their respective affidavits in both cases stating that the matter has been settled between the parties and the respective defacto complainants have stated that they have no objection in quashing the impugned criminal proceedings pending against the respective petitioners. It is in the light of these aspects that the petitioners have filed these Crl.M.Cs 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

Crl.M.C.Nos.5385 & 5392 Of 2015

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.

3. Accordingly, it is ordered in Crl.M.C.No.5385/2015 that the impugned Anx-A1 final report/charge sheet in Crime No.727/2012 of Varappuzha Police Station, which is now pending as S.C.No.326/2013 on the file of the Additional Assistant Sessions Court, North Parur and all further proceedings arising therefrom pending against the petitioners therein stand quashed under Sec.482 of the Code of Criminal Procedure. It is also ordered in Crl.M.C.No.5392/2015 that the impugned Anx-A1 final report/charge sheet in Crime No.1080/2012 of Varappuzha Police

::4::

Crl.M.C.Nos.5385 & 5392 Of 2015

Station, which is now pending as S.C.No.6/2015 on the file of the Additional Assistant Sessions Court, North Parur, and all further proceedings arising therefrom pending against the petitioners therein stand quashed under Sec.482 of the Code of Criminal Procedure

With these observations and directions, these Crl.M.Cs stand finally disposed of.

ALEXANDER THOMAS,
Judge.

bkn/-