

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. 5416 of 2015 ()

SC 210/2015 of III ADDL. SESSIONS COURT, THODUPUZZHA

PETITIONERS/ACCUSED :

- 1. SHYJO, AGED 28 YEARS,
S/O JOSEPH, PAYAPPILI HOUSE, PUTHIYEKARA BHAGAM,
MATTOOR KARA, MATTOOR VILAGE, ERNAKULAMDISTRICT)A1)**
- 2. BRISTO, AGED 26 YEARS,
S/O JOY, PONNIDATHUPARA HOUSE, NEELESWARAM KARA,
KALADY VILLAGE, ERNAKULAM DISTRICT(A2)**
- 3. JOSEPH, AGED 24 YEARS,
S/O THOMAS, PALLATTU HOUSE, MARAVATTICHUVADU BHAGAM
MATTOOR KARA, MATTOOR VILLAGE ERNAKULAM DISTRICT**
- 4. AMAL C. SABU, AGED 21 YEARS,
S/O SABU, CHOVVARAN HOUSE, PUTHIYEKKARA BHAGAM
MATTOOR KARA, MATTOOR VILLAGE, ERNAKULAM DISTRICT**
- 5. BILAL, AGED 21 YEARS,
S/O SULAIMAN, VELURNKODAN HOUSE, KOMBARA BHAGAM
NAD KARA, ALUVA VILLAGE, ERNAKULAM DISTRICT**
- 6. NITHIN JOY, AGED 22 YEARS,
S/O JOY PAUL, VATTAPARAMBAN HOUSE, PIRALLOOR BHAGAM
PIRALLOOR KARA, MATTOOR VILLAGE, ERNAKULAM DISTRICT**
- 7. TINTO ANTONY, AGED 22 YEARS,
S/O ANTONY, CHITTUPARAMBAN HOUSE, PUTHIYAKARA BHAGAM,
PUTHIYEKARA KARA, MATTOORVILLAGE, ERNAKULAM DISTRICT**
- 8. GEORGE @ MATHACHAN, AGED 49 YEARS,
S/O GEORGE, THENGUMPILLIL HOUSE, ANCHIRI KARA,ALAKKOM**
- 9. ABBAS, AGED 20 YEARS,
S/O THAJUDEEN, MANGALATH HOUSE, KARATTUPALLIKKARAYIL
AYMURI BHAGAM, PERUMBAVOOR VILLAGE, ERNAKULAM DISTRICT**
- 10. VARGHESE BABU, AGED 23 YEARS,
S/O BABU VARGHESE, KUDIYIRUPPIL HOUSE, MATTOOT BHAGAM
MATTOOR KARA, MATTOOR VILLAGE, ERNAKULAM DISTRICT**

BY ADV. SRI.K.S.RAJEEV (ALUVA)

RESPONDENTS/COMPLAINANT :

1. STATE OF KERALA
REPRESENTED BY SUB-INSPECTOR OF POLICE,
THODUPUZHA POLICE STATION BY PUBLIC
PROSECUTOR HIGH COURT OF KERALA-682 031
2. RAISON.T. SUNNY, AGED 27 YEARS,
S/O SUNNY, THAIMAKKAL HOUSE, EDAPPALLY KARA,
MUTTOM VILLAGE AND NOW RESIDING IN
A RENTED BUILDING ROYAL COTTAGE
OLAMATTOM WEST KARA, THODUPUZHA VILLAGE,
IDUKKI DISTRICT-685 584
3. SARATH, AGED 24 YEARS,
S/O SASIDHARAN, THUNDATHIL HOUSE, EDAKKUNAM KARA,
EDAKKUNAM VILLAGE, KOTTAYAM DISTRICT 686 572
4. GIBIN JOSEPH, AGED 25 YEARS,
S/O JOSEPH CHURATHIL HOUSE, KOLPRA BHAGAM
KUDAUAYATHUR KARA, KUDAYATHUR VILLAGE, 685 590
5. SUNIL, AGED 25 YEARS,
S/O SURENDRAN, MUNDUPALATHINGAL HOUSE
MAYAMKADU BHAGAM, MADAKATHANAM KARA
MANJALLOOR VILLAGE, 686 690
6. C.K. JABBAR,
PAZHAYAVEETIL HOUSE, KARIKODE VILLAGE
KOTTAYAM 686 690.

R BY PUBLIC PROSECUTOR SRI. RAJESH VIJAYAN
R2 TO R6 BY ADV. SRI.N.S.AJAY

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

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- ANNEXURE -1: CERTIFIED COPY OF FINAL REPORT IN CRIME NO. 668/14 OF THODUPUZHA POLICE STATION.**
- ANNEXURE A2: AFFIDAVIT OF SECOND RESPONDENT.**
- ANNEXURE -3: AFFIDAVIT OF THIRD RESPONDENT.**
- ANNEXURE -4: AFFIDAVIT OF 4TH RESPONDENT.**
- ANNEXURE -5: AFFIDAVIT OF 5TH & 6TH RESPONDENT**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

ALEXANDER THOMAS, J.

Crl.M.C.No.5416 Of 2015

Dated this the 18th day of August, 2015.

ORDER

The petitioners are accused Nos.1 to 4, 6, 7, 9 to 11 & 13 in the impugned Anx-A1 final report/charge sheet filed in Crime No.668/2014 of Thodupuzha Police Station, registered for offences alleged under Secs.143, 147, 148, 452, 294(b), 323, 324, 308, 506(ii), 427, 120(b) r/w 149 IPC and Sec.27 of the Arms Act. The prosecution case is that the accused formed themselves into an unlawful assembly and trespassed into the defacto complainant's shop and attacked him and others with weapons and thus committed the offences. The 8th accused in this case is a juvenile and the case against him is pending before the Juvenile Justice Board. The 5th and 12th accused had not appeared before the court and as per the charge sheet they are absconding and the case against them was split up and refiled as C.P.No.18/2015 on the file of the Judicial First Class Magistrate Court-I, Thodupuzha. The case against the petitioners is now pending as S.C.No.210/2015 on the file of the Additional Sessions Court-III, Thodupuzha. Now, it is submitted that the matter has been settled

Crl.M.C.No.5416 Of 2015

between the petitioners and the respondents 2 to 5 (defacto complainant/injured) and that the said respondents have sworn to Anxs-A2 to A5 affidavits stating that the matter has been settled and they have no objection in quashing the impugned criminal proceedings pending against the petitioners. It 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

Crl.M.C.No.5416 Of 2015

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 the interest of justice that the impugned Anx-A1 final report/charge sheet filed in Crime No.668/2014 of Thodupuzha Police Station, which is now pending as S.C.No.210/2015 on the file of the Additional Sessions Court-III, Thodupuzha, 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/-