

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 3RD DAY OF MARCH 2015/12TH PHALGUNA, 1936

Crl.MC.No.4238 of 2014 ()

**AGAINST THE ORDER IN CC 313/2014 of J.M.F.C.-II, PERINTHALMANNA IN
CRIME NO. 326/2010 OF WANDOOD POLICE STATION , MALAPPURAM**

PETITIONER :

**ABUTTY @ ABOOBACKER, AGED 53 YEARS,
S/O.AHAMMADKUTTY HAJI, AVANIKKARA HOUSE, VARAMBAMKALLU
WANDOOD, KOORAD P.O, MALAPPURAM DISTRICT.**

BY ADV. SRI.SAJU.S.A

RESPONDENTS :

- 1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM 682 031.**
- 2. SHAJAHAN, AGED 35 YEARS,
S/O.USMAN, KORANKANDAN HOUSE, VARAMBANKALLU
WANDOOD, KOORAD P.O, MALAPPURAM 679 339.**

**R1 BY PUBLIC PROSECUTOR SMT. P. MAYA.
R2 BY ADV. SRI.M.DEVESH**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
03-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

VS

Crl.MC.No.4238 of 2014 ()

APPENDIX

PETITIONER(S)' EXHIBITS

- ANNEXURE 1 . COPY OF THE FIR AND FIS IN WANDOOR POLICE CRIME
326/2010 DATED 10.8.10.**
- ANNEXURE 2 . COPY OF THE FINAL REPORT FILED IN FILED IN WANDOOR
POLICE STATION CRIME NO.326/2010.**
- ANNEXURE 3 . COPY OF THE JUDGMENT DATED 31.3.14 IN CC 538/2010.**
- ANNEXURE 4 . COPY OF THE AFFIDAVIT OF THE 2ND RESPONDENT.**

RESPONDENT(S)' EXHIBITS

NIL

/TRUE COPY/

PA TO JUDGE

VS

P.UBAID, J

Crl.M.C.No.4238 of 2014

Dated this the 3rd day of March, 2015

ORDER

The petitioner herein is the original 1st accused in C.C No.538/2010 of the Judicial First Class Magistrate Court-II, Perintalmanna. He seeks orders quashing the prosecution on the ground of amicable settlement of the whole dispute between him and the de facto complainant. Crime in this case was registered under Sections.143, 147, 448, 323, 324 r/w 149 IPC., on the complaint of one Shajahan who is the 2nd respondent in this proceeding brought under Section 482 of the Code of Criminal Procedure. He has filed affidavit to the effect that he has settled the whole dispute with the accused and he has no grievance or complaint now.

2. The other 5 accused in the case faced trial before the learned Magistrate and obtained a judgment of acquittal on 31.3.2014. when all the material witnesses turn hostile in view of an amicable settlement made by the parties, out of court. The case against the petitioner was refiled as CC.No.313 of 2014.

3. In so many decisions, the Hon'ble Supreme Court has held that even in cases involving non-compoundable

offences, the High Court can quash the prosecution in pending proceedings, if the parties have really settled the whole dispute amicably out of court, and continuance of the prosecution will not serve any purpose in such a circumstance of amicable settlement. Here, I find a real and genuine case of settlement between the parties. This is not a case involving any public interest or public issue. The parties have come to terms amicably on the intervention of persons acceptable to both sides, and I am satisfied that the parties are now on quite cordial terms. In such a situation, continuance of the prosecution will not serve any purpose other than wasting the precious time of the court. No doubt, nobody will support the prosecution in such a situation, if the case goes to trial.

In the result, this petition is allowed. The prosecution against the petitioner herein in CC.No.313 of the Judicial First Class Magistrate's Court-II, Perintalmanna, will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioner will stand released from prosecution.

Sd/-
P.UBAID
JUDGE

vs