

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. 5443 of 2015 ()

**CP.NO. 33/2015 OF JUDICIAL FIRST CLASS MAGISTRATE COURT - II, PERAMBRA
CRIME NO. 35/2015 OF PERUVANNAMUZHY POLICE STATION, KOZHIKODE**

PETITIONER/ACCUSED :

**RAJEEVAN
S/O.BALAN NAIR, AGED 39
POOVATHINKOOTTATHIL (HOUSE), AVADUKKA P.O.,
KOYILANDI TALUK, KOZHIKODE DISTRICT.**

BY ADV. SRI.C.K.PRASAD

RESPONDENTS/COMPLAINANT & STATE :

**1. MADHAVAN
S/O.CHATHAN, PUNATHIL (HOUSE), AVADUKKA P.O.,
KOYILANDI TALUK, KOZHIKODE DISTRICT**

**2. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.**

**R1 BY ADV. SRI.K.PRAMODAN
R2 BY PUBLIC PROSECUTOR SMT. P. MAYA**

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

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APPENDIX

PETITIONERS' ANNEXURES :

- ANNEXURE 1:** CERTIFIED COPY OF THE FIR IN CRIME NO.35/2015 DATED 04.03.2015 OF PERUVANNAMOOZHI POLICE STATION.
- ANNEXURE 2:** TRUE ATTESTED FREE COPY OF THE FIS DTD. 04.03.2015 IN CRIME NO.35/15 OF PERUVANNAMOOZHI POLICE STATION.
- ANNEXURE 3:** TRUE ATTESTED FREE COPY OF WOUND CERTIFICATE DATED 03.03.2015 ISSUED BY THE ASSISTANT SURGEON, TALUK HOSPITAL, PERAMBRA.
- ANNEXURE 4:** TRUE ATTESTED FREE COPY OF THE FINAL REPORT ALONG WITH THE MEMORANDUM OF EVIDENCE FILED BY THE SI OF POLICE, PERUVANNAMOOZHI POLICE STATION IN CRIME NO. 35/2015.
- ANNEXURE 5:** NOTARISED COMPROMISE DEED EXECUTED BETWEEN THE PETITIONER AND THE 1ST RESPONDENT DATED 13.07.2015.
- ANNEXURE 6:** ORIGINAL AFFIDAVIT EXECUTED AND SIGNED BY THE 1ST RESPONDENT DATED 13.07.2015 FOR THE PURPOSE OF PRODUCING BEFORE THIS HON'BLE COURT.
- ANNEXURE 7:** TRUE CERTIFIED COPY OF THE JUDGMENT DATED 26.11.2014 IN OS.NO.150/2011 OF THE HON'BLE MUNISIFF, PERAMBRA.
- ANNEXURE 8:** TRUE CERTIFIED COPY OF THE DECREE DATED 26.11.2014 IN OS.NO.150/2011 OF THE HON'BLE MUNISIFF, PERAMBRA

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

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ALEXANDER THOMAS, J.

Crl.M.C.No.5443 Of 2015

Dated this the 18th day of August, 2015.

ORDER

The petitioner is the accused in C.P.No.33/2015 on the file of the Judicial First Class Magistrate Court-II, Perambra, which arose out of impugned Anx-1 FIR in Crime No.35/2015 of Peruvannamoozhi Police Station, registered for offences alleged under Secs.341, 324, 294(b) & 308 of the 34 IPC. The case was registered on the basis of the FIS given by the 1st respondent-defacto complainant. Now, it is submitted that the matter has been settled between the petitioner and the 2nd respondent (defacto complainant) and that the 2nd respondent has sworn to Anx-6 affidavit stating that the matter has been settled amicably and that he has no objection in quashing the impugned criminal proceedings pending against the petitioner. 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 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.

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3. Accordingly, it is ordered in the interest of justice that the impugned Anx-1 FIR in Crime No.35/2015 of Peruvannamoozhy Police Station, which is now pending as C.P.No.33/2015 on the file of the Judicial First Class Magistrate Court-II, Perambra, and all further proceedings arising therefrom pending against the petitioner 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/-