

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. 5467 of 2015

**CC 1134/2012 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, THIRUVALLA
CRIME NO. 161/2012 OF KEEZHVAIPUR POLICE STATION , PATHANAMTITTA**

PETITIONER(S)/ACCUSED NO.2:

**THOMAS GEORGE, AGED 57 YEARS,
S/O.GEORGE, RAJAGIRI HOUSE, PERUNNA KIZHAKKU MURI,
PERUNNA VILLAGE, CHANGANACHERRY TALUK,
KOTTAYAM DISTRICT.**

**BY ADVS.SRI.S.RAJEEV
SRI.K.K.DHEERENDRAKRISHNAN
SRI.V.VINAY**

RESPONDENT(S)/INFORMANT/STATE:

- 1. STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM - 682 031 (CRIME NO.161/2012
OF KEEZHVAIPUR POLICE STATION,
PATHANAMTHITTA DISTRICT).**
- 2. M.V.THOMAS, AGED 67 YEARS,
S/O.LATE CHACKO VARGHESE, MUTTATHU VADAKKETHIL HOUSE,
PALAKKADY P.O., KUNNANTHANAM VILLAGE,
MALLAPPALLY TALUK, PATHANAMTHITTA DISTRICT.**

**R1 BY PUBLIC PROSECUTOR SRI.RAJESH VIJAYAN
R2 BY ADV. SRI.VINOD KUMAR.C**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 18-08-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

Crl.MC.No. 5467 of 2015

APPENDIX

PETITIONER(S)' ANNEXURES

ANNEXURE-I: TRUE COPY OF THE FIR IN CRIME NO.161/2012 ALONG WITH THE COMPLAINT

ANNEXURE-II: CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.161/2012 OF KEEZHVAIPUR POLICE STATION.

ANNEXURE-III: NOTARIZED AFFIDAVIT DATED 31.7.2015 SWORN BY THE 2ND RESPONDENT

RESPONDENT(S)' ANNEXURES

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

ALEXANDER THOMAS, J.

Crl.M.C.No.5467 Of 2015

Dated this the 18th day of August, 2015.

ORDER

The petitioner is the 2nd accused in impugned Anx-II final report/charge sheet filed in Crime No.161/2012 of Keezhvaipur Police Station, registered for offences alleged under Sec.420 r/w 34 IPC, which is now pending as C.C.No.1134/2012 on the file of the Judicial First Class Magistrate Court, Thiruvalla on the basis of the complaint filed by the 2nd respondent herein against three other persons. The police after investigation submitted the final report against the petitioner and one another person named in the complaint. The other two persons named in the complaint were removed from the accused array and the petitioner was arrayed as the 2nd accused. The petitioner is innocent of the allegations raised against him and he was never involved in any transaction between the 1st accused and the informant. Now, it is submitted that the matter has been settled between the petitioner and the 2nd respondent (informant) and that the 2nd respondent (informant) has

Crl.M.C.No.5467 Of 2015

sworn to Anx-III affidavit stating that the matter has been settled 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 petitioner has 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

Crl.M.C.No.5467 Of 2015

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 the interest of justice that the impugned Anx-II final report/charge sheet filed in Crime No.161/2012 of Keezhvaipur Police Station, which is now pending as C.C.No.1134/2012 on the file of the Judicial First Class Magistrate Court, Thiruvalla, and all further proceedings arising therefrom pending as 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/-