

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

THURSDAY, THE 20TH DAY OF AUGUST 2015/29TH SRAVANA, 1937

Crl.MC.No. 5596 of 2015 ()

CP 25/2015 of JUDICIAL FIRST CLASS MAGISTRATE COURT-III,PALAKKAD

PETITIONERS/ACCUSED 1-9:

- 1. ABHIJITH A., AGED 23 YEARS,
S/O.ASHOKAN K., REVATHY HOUSE, PAYYAL
PUDUPARIYARAM P.O., PALAKKAD.**
- 2. AJITH C., AGED 23 YEARS,
S/O. S.CHANDRAN, POONILAVU HOUSE, KAKKANI,
VIDYA NAGAR, KALLEKULANGARA P.O., PALAKKAD.**
- 3. SHAHID, AGED 24 YEARS,
S/O.RASHEED, PAZHAYA CHUNGAM HOUSE,
EZHAkad P.O.,MUNDUR, PALAKKAD.**
- 4. JITHU, AGED 22 YEARS,
S/O.DEVADAS M., CHATHINKKAD HOUSE, ANAND NAGAR,
KALLEKULANGARA P.O., PALAKKAD.**
- 5. SARATH, AGED 23 YEARS,
S/O.SUBRAHMANIAN K., RAILWAY QUARTERS NO.294/A
KALLEKULANGARA P.O., PALAKKAD.**
- 6. DIDYMAS, AGED 21 YEARS,
S/O.THOMAS, 'MAHANAIM', PALAPARAMBU
MUTTIKULANGARA P.O., PALAKKAD.**
- 7. SUJITH, AGED 20 YEARS,
S/O.MANIKANDAN, SARAVANA BHAVAN, BRINDAVAN NAGAR
DHONI P.O., AKATHETHARA, PALAKKAD.**
- 8. SIJITH M.V., AGED 22 YEARS,
S/O.BHASKARAN, MANDALAMKODE HOUSE, CHERUNGATUKAVU
AKATHETHARA, PALAKKAD.**
- 9. SAJITH, AGED 23 YEARS,
S/O.SIVASANKARAN, CHEMPULLY HOUSE, AANDIMADOM
KADAKKAMKUNAM P.O., PALAKKAD.**

BY ADV. SRI.V.A.JOHNSON (VARIKKAPPALLIL)

RESPONDENTS/DEFACTO COMPLAINANT/CW 2-7 AND STATE :

1. SARATH. K.P, AGED 23 YEARS,
S/O.N.CHANDRAN, MANJAKANDI HOUSE,
CHERUPAZHASSI P.O., KANNUR-670601.
2. AJITH THOMAS, AGED 23 YEARS,
S/O.THOMAS C.S., CHAKKALAKKAL HOUSE,
KARIYODE, WAYANAD-673316.
3. SACHIN CHANDRAN A., AGED 23 YEARS
S/O.CHANDRAN, CHANDRODAYAM, NILAMBUR
MALAPPURAM-679329.
4. SANID T., AGED 22 YEARS, S/O.MUHAMMED,
KARUTHEDATH HOUSE, CHENTHAMANGALLUR,
KOZHIKKODE-673611.
5. VARUN K., AGED 23 YEARS,
S/O.KIRAN, SARAYU, NELLIKKODE P.O.,
KOZHIKKODE-673605.
6. ARJUN, AGED 22 YEARS,
S/O.RAJAN, MUTHARATH HOUSE, NARATH P.O.
KANNUR-670603.
7. ASHOK, AGED 22 YEARS,
S/O.DIVAKARAN, KRISHNAVILASAM, PAARAVEDI,
KOTHAMANGALAM, ERNAKULAM-686691.
8. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.

R1 TO R7 BY ADV. SRI.P.M.RAFIQ

R8 BY PUBLIC PROSECUTOR SRI. RAJESH VIJAYAN

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 20-08-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

- ANNEXURE A :** TRUE COPY OF THE FINAL REPORT IN CR.22/2014 OF HEMAMBIKA NAGAR POLICE STATION, PALAKKAD.
- ANNEXURE B :** TRUE COPY OF THE AFFIDAVIT SWORN BY R1 HEREIN EVIDENCING THE AFORESAID FACT.
- ANNEXURE C :** TRUE COPY OF THE AFFIDAVIT SWORN BY R2 HEREIN EVIDENCING THE AFORESAID FACT.
- ANNEXURE D :** TRUE COPY OF THE AFFIDAVIT SWORN BY R3 HEREIN EVIDENCING THE AFORESAID FACT.
- ANNEXURE E :** TRUE COPY OF THE AFFIDAVIT SWORN BY R4 HEREIN EVIDENCING THE AFORESAID FACT.
- ANNEXURE F :** TRUE COPY OF THE AFFIDAVIT SWORN BY R5 HEREIN EVIDENCING THE AFORESAID FACT.
- ANNEXURE G :** TRUE COPY OF THE AFFIDAVIT SWORN BY R6 HEREIN EVIDENCING THE AFORESAID FACT.
- ANNEXURE H :** TRUE COPY OF THE AFFIDAVIT SWORN BY R7 HEREIN EVIDENCING THE AFORESAID FACT.
- ANNEXURE I :** TRUE COPY OF THE AGREEMENT DT.18-3-2014 EXECUTED BETWEEN THE PETITIONERS AND THE R1 TO R7.
- ANNEXURE J :** TRUE COPY OF THE DEATH CERTIFICATE DT.18-5-2015 ISSUED BY THE SECRETARY AND REGISTRAR OF BIRTHS AND DEATHS AKETHETHARA GRAMA PANCHAYAT.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A.TO JUDGE

bp

ALEXANDER THOMAS, J.

Crl.M.C.No.5596 Of 2015

Dated this the 20th day of August, 2015.

ORDER

The petitioners are the nine accused in impugned Anx-A final report/charge sheet filed in Crime No.22/2014 of Hemambika Nagar Police Station, Palakkad, registered for offences punishable under Secs.143, 147, 148, 447, 452, 341, 323 & 307 r/w 149 IPC, which is now pending as C.P.No.25/2015 on the file of the Judicial First Class Magistrate Court-III, Palakkad. The 10th accused in the crime is no more. The case was registered at the instance of the 1st respondent herein due to certain minor temperamental differences. Now, it is submitted that the matter has been settled between the petitioners and the respondents 1 to 7 (defacto complainant/injured) and that the respondents 1 to 7 have sworn to Anxs-B to H affidavits stating that the matter has been settled and that 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.

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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-A final report/charge sheet filed in Crime No.22/2014 of Hemambika Nagar Police Station, Palakkad, which is now pending as C.P.No.25/2015 on the file of the Judicial First Class Magistrate Court-III, Palakkad 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/-