

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. 5610 of 2015 ()

CP 46/2015 of JUDICIAL FIRST CLASS MAGISTRATE COURT, NILAMBUR

PETITIONERS/ACCUSED:

- 1. JAMSHEER, AGED 27 YEARS, S/O. ABDURASAK,
THUPPINIKKADAN HOUSE, NILAMBUR AMSOM,
PADIKKUNNU, MALAPPURAM DISTRICT.**
- 2. SHAREEF, S/O.ALAVI, AGED 24 YEARS,
NADUVILAKKALATHIL HOUSE, JANATHAPPADI,
NILAMBUR, MALAPPURAM DISTRICT.**

BY ADV. SRI.P.SAMSUDIN

RESPONDENTS/STATE AND DEFACTO COMPLAINANT :

- 1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM. 682 031.**
- 2. IMAD AKHL, AGED 23 YEARS,
S/O.SALIM, PANAKKATHODIKA HOUSE,
CHANDAKKUNNU-679 342, NILAMBUR, MALAPPURAM DISTRICT.**

**R1 BY PUBLIC PROSECUTOR SRI. RAJESH VIJAYAN
R2 BY ADV. SRI.JITHIN LUKOSE**

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

bp

Crl.MC.No. 5610 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

**ANNX.A1: TRUE COPY OF THE FINAL REPORT IN CRIME NO.517/2009 OF
NILAMBUR POLICE STATION.**

**ANNX.A2: THE AFFIDAVIT DATED 12.08.2015 SWORN IN BY THE 2ND
RESPONDENT.**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

ALEXANDER THOMAS, J.

Crl.M.C.No.5610 Of 2015

Dated this the 20th day of August, 2015.

ORDER

The petitioners are the accused in impugned Anx-A1 final report/charge sheet filed in Crime No.517/2009 of Nilambur Police Station, registered for offences alleged under Secs.341 & 323 r/w 34 IPC, which is now pending as C.P.No.46/2015 on the file of the Judicial First Class Magistrate Court, Nilambur. The prosecution case is that the accused persons wrongfully restrained the defacto complainant and beat him and thereby inflicted simple hurt on him. Now, it is submitted that the matter has been settled between the parties and the 2nd respondent (defacto complainant) has sworn to Anx-A2 affidavit stating that the matter has been settled and that he has 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,

CrI.M.C.No.5610 Of 2015

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.

3. Accordingly, it is ordered in the interest of justice that

Crl.M.C.No.5610 Of 2015

the Anx-A1 final report/charge sheet filed in Crime No.517/2009 of Nilambur Police Station, which is now pending as C.P.No.46/2015 on the file of the Judicial First Class Magistrate Court, Nilambur 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/-