

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

CrI.MC.No. 5650 of 2015 ()

CC 827/2011 of JUDICIAL FIRST CLASS MAGISTRATE COURT-I, KOLLAM

PETITIONER(S)/ACCUSED NO. 1 TO 6 :

- 1. MUHAMMAD RIFDU RAHMAN, AGED 26 YEARS,
S/O SUHAYILK RAHMAN VALITHARA TANOOR,
PALLANA PO., ALAPUZHA -690 515**
- 2. GLIGITH . M., AGED 26 YEARS,
S/O. JANARDHANAN, MAKKAT HOUSE,
RAMANTTUKARA P.O., KOZHIKODE-673633**
- 3. SWARUP PRATHAP, AGED 25 YEARS,
S/O PRATHAP SANGEETH, RAMANTTUKARA P.O.,
KOZHIKODE - 673633**
- 4. BASIM ABDULKHADER, AGED 25 YEARS,
S/O ABDULKHADER DAYA MAHAL, KANACHERY PO,
EACHUR, KANNUR-670 591**
- 5. VISHNU DILEEP, AGED 25 YEARS,
S/O DILEEP KUMAR, CHIRAKKAL HOUSE, PALAZHI P.O.,
KADALUNDI, KOZHIKODE-673 014**
- 6. AVINASH BABY, AGED 26 YEARS,
S/O P.V. BABY PULIMOOTIL HOUSE,
MUDAVOOR POMUVATTUPUZHA, ERNAKULAM- 686 669**

**BY ADVS.SRI.K.SHAJ
SRI.SAJJU.S**

RESPONDENTS/STATE & CW1 & 2 :

- 1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031**
- 2. ALEX J MATHEW, AGED 24 YEARS,
S/O MATHEW, CHERUVATHU VEEDU, AMMAN NAGAR-55
PATTATHANAM, VADAKKEVILA VILLAGE, VADAKKEVILAPO
KOLLAM 691 006**

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**3. ANZIL, AGED 24 YEARS,
S/O NISHARUDEEN, CHINNU VILLAYAIL, MAHATMA NAGAR-100
VADAKEVILA VILAGE, VADAKKEVILA PO, KOLLAM 691 006**

**R1 BY PUBLIC PROSECUTOR SRI. RAJESH VIJAYAN
R2 & R3 BY ADV. SRI. SERGI JOSEPH THOMAS**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 20-08-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

**ANNEXURE A1: THE TRUE COPY OF THE CHARGE SHEET IN CC NO 827/11
PENDING BEFORE THE JFCM COURT-1, KOLLAM AND IN
CRIME NO. 319/11 OF KILIKJOLLOOR POLICE STATION.**

**ANNEXURE A2: AN AFFIDAVIT SWORN BY THE SECOND RESPONDENT
STATING THE SETTLEMENT OF AL THE DISPUTES.**

**ANNEXURE A3: AN AFFIDAVIT SWORN BY THE 3RD RESPONDENT STATING
THE SETTLEMENT OF ALL THE DISPUTES**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

ALEXANDER THOMAS, J.

Crl.M.C.No.5650 Of 2015

Dated this the 20th day of August, 2015.

ORDER

The petitioners are the six accused in impugned Anx-A1 final report/charge sheet filed in Crime No.319/2011 of Kilikolloor Police Station, registered for offences alleged under Secs.143, 147, 341, 323, 324 r/w 149 of the IPC, which is now pending as C.C.No.827/2011 on the file of the Judicial First Class Magistrate Court-I, Kollam. The case was registered on the basis of the altercation occurred between the students of the College. Now, it is submitted that the matter has been settled between the petitioners and respondents 2 & 3 (defacto complainant/injured) and that respondents 2 & 3 have sworn to Anxs-A2 & A3 affidavits respectively 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-A1 final report/charge sheet filed in Crime No.319/2011 of Kilikolloor Police Station, which is now pending as C.C.No.827/2011 on the file of the Judicial First Class Magistrate Court-I, Kollam 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/-