

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

MONDAY, THE 13TH DAY OF JULY 2015/22ND ASHADHA, 1937

Crl.MC.No. 4507 of 2014 ()

**CC NO. 718/2011 of JUDICIAL FIRST CLASS MAGISTRATE COURT, KODUNGALLUR
CRIME NO. 616/2009 OF MATHILAKOM POLICE STATION, TRISSUR**

PETITIONER/ACCUSED 1 IN CRIME :

**LISSY VARGHEESE, AGED 50 YEARS,
D/O.VARGHESE, KOCHUKUDIYIL HOUSE, TRIKKALLATHOOR
MUVATTUPUZHA, ERNAKULAM DISTRICT.**

BY ADV. SRI.M.S.SAJEEV KUMAR

RESPONDENTS/COMPLAINANTS :

- 1. THE STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM
OFFICE OF THE ADVOCATE GENERAL HIGH COURT
ERNAKULAM 682 031.**
- 2. THE STATION HOUSE OFFICER,
MATHILAKAM POLICE STATION, THRISSUR DISTRICT
REPRESENTED BY ITS PUBLIC PROSECUTOR
HIGH COURT OF KERALA
OFFICE OF THE ADVOCATE GENERAL HIGH COURT
ERNAKULAM 682 031.**
- 3. PEETHAMBARAN K.K., AGED 60 YEARS,
S/O.KUNHU VELAYI, KALATHIL HOUSE,
POOKALAI BEACH ROAD, KOOLIMUTTAM P.O, THRISSUR.**

***ADDL. R4 IMPEADED :**

- *4. THE ASSISTANT GENERAL MANAGER,
STATE BANK OF TRAVANCORE, ASSET RETAIL BRANCH,
PANAMPILLY NAGER, COCHIN.**

***ADDL. R4 IS IMPEADED AS PER ORDER DT 7/10/2014 IN CRL.M.A. 8883/14
IN CRL.MC. 4507/2014**

**R1 & R2 BY PUBLIC PROSECUTOR SRI. N. SURESH
R3 BY ADV. DR.K.P.PRADEEP
ADDL. R4 BY ADV. SRI.SATHISH NINAN**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 13-07-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

**ANNEXURE A: COPY OF THE FIR IN CRIME NO.616/2009 DATED 4.7.2009 OF
MATHILAKAM POLICE STATION FILED AND PENDING BEFORE THE
JUDICIAL FIRST CLASS MAGISTRATE COURT, KODUNGALLUR.**

**ANNEXURE B: COPY OF THE FINAL REPORT IN CRIME NO.616/09 DATED 30.07.09 OF
MATHILAKAM POLICE STATION FILED AND PENDING BEFORE THE
JUDICIAL FIRST CLASS MAGISTRATE COURT, KODUNGALLUR.**

**ANNEXURE C: COPY OF THE JUDGMENT IN CC 916 OF 2009 DATED 16.9.11 OF THE
LEARNED JUDICIAL FIRST CLASS MAGISTRATE COURT,
KODUNGALLUR.**

**ANNEXURE D: COPY OF THE PROCLAMATION OF SALE DATED 26.6.13 IN DRC
NO.3269 ISSUED BY THE RECOVERY OFFICER, DEBT RECOVERY
TRIBUNAL, ERNAKULAM.**

**ANNEXURE E: COPY OF THE JOINT AGREEMENT EXECUTED BETWEEN THE
PETITIONER AND THE 3RD RESPONDENT ON 17.7.14.**

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

ALEXANDER THOMAS, J.

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Crl.M.C No.4507 of 2014

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Dated this the 13th day of July, 2015

ORDER

The petitioner seeks orders quashing the F.I.R and further proceedings in Crime No.616 of 2009 of Mathilakam Police Station, registered under Sections 420 r/w 34 of IPC. Orders are sought on the ground of amicable settlement of the whole dispute between the accused and the de facto complainant out of court.

2. The learned public prosecutor in this case was also directed to get instructions from the Investigating officer and file statement. The investigating officer has thereupon filed statement dated 8.10.2014 in this matter wherein it is also stated that the petitioner herein Smt. Lissy Varghese approached the State Bank of Travancore Authorities and settled the matter with a re-payment of Rs.50 lakhs and that at present no liabilities are pending against the petitioner. Along with such statement, the Investigating Officer has also annexed a signed statement dated 30.9.2014 of one Sri.R. Muraleedhara Kurup, Chief Manager, Asset Recovery Management

Branch, SBT Zonal Office, Panampilly Nagar, Ernakulam wherein the aforestated fact is stated. The State Bank of Travancore has been impleaded as additional respondent No. 4 and Sri. Satish Ninen the learned counsel appearing for the 4th respondent, State Bank of Travancore has also submitted that there are no pending liabilities of the petitioner herein and that the matter has been settled.

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 continuance of 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 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.

Accordingly, the impugned F.I.R and further proceedings arising out of Crime No.616 of 2009 of Mathilakam Police Station, including all further proceedings arising out of C.C.No.718 of 2011 on the file of the Judicial First Class Magistrate Court- Kodungallur pending against the petitioner herein will stand quashed under Section 482 of the Code of Criminal Procedure.

With these observations and directions, this Crl.M.C. stands finally disposed of.

sd/-

sab

ALEXANDER THOMAS, JUDGE