

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. 5704 of 2015

**LP.NO.46/2004 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, IRINJALAKKUDA
CRIME NO. 338/2000 OF IRINJALAKKUDA POLICE STATION, THRISSUR**

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PETITIONER(S)/ACCUSED:

**RATHEESH,
S/O.RAJAN, KANNANKADAN HOUSE,
AYYAMPUZHA VILLAGE DESOM,
ERNAKULAM DISTRICT.**

**BY ADVS.SRI.P.VIJAYA BHANU (SR.)
SRI.M.REVIKRISHNAN
SRI.VIPIN NARAYAN**

RESPONDENT(S)/STATE & DEFACTO COMPLAINANT:

- 1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.**
- 2. SHINTO,
S/O.RAPPAI, R/A.PALLAI HOUSE, KURISANGADI,
MANAVALASSERI VILLAGE, IRINJALAKKUDA - 680 121.**

**R1 BY PUBLIC PROSECUTOR SRI.RAJESH VIJAYAN
R2 BY ADV. SRI.VIVEK JOY K.**

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

msv/

Crl.MC.No. 5704 of 2015

APPENDIX

PETITIONER(S)' EXHIBITS

**ANNEXURE A:-TRUE COPY OF THE FINAL REPORT IN CRIME NO 338/2000 OF
IRINJALKKUDA POLICE STATION, THRISSUR DISTRICT.**

**ANNEXURE B:-AFFIDAVIT SWORN TO BY THE 2ND RESPONDENT SIGNIFYING THE
FACTUM OF SETTLEMENT OF THE DISPUTES WITH THE PETITIONER**

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

ALEXANDER THOMAS, J.

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Crl.M.C.No.5704 of 2015

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Dated this the 20th day of August, 2015

O R D E R

The petitioner herein is the accused in the impugned Annexure-A Final Report/Charge Sheet filed in Crime No.338/2000 of Irinjalakkuda Police Station, Thrissur registered for offence punishable under Section 379 of the IPC which has led to the institution of L.P.No.46/2004 on the file of the Judicial First Class Magistrate Court, Irinjalakkuda. The prosecution case is that on 31/05/2000 at about 10.45 a.m. the petitioner/accused allegedly, with dishonest intention, had taken away the motor cycle belonging to the 2nd respondent/ defacto complainant without his consent and that he has accordingly committed the above said offence. It is pointed out that the alleged offence took place in the year 2000 and the allegation was raised at a time when the petitioner was only 19 years old and now 14 years have elapsed since the date of offence and the petitioner is now a renowned music director in films, it is stated. Due to intervention of the well-wishers and friends, now the entire disputes between the petitioner and the 2nd respondent on account of the impugned crime have been amicably settled.

Orders are sought on the ground of amicable settlement of the whole dispute between the accused and the de facto complainant out of court. The de facto complainant is the 2nd respondent in this proceeding brought under Section 482 of the Code of Criminal Procedure. He has filed Annexure-B affidavit to the effect that he has settled the whole dispute with the accused and he has no grievance or complaint. It is in the light of these aspects that the petitioner has preferred the instant Crl.M.C. with the prayer to quash the impugned criminal proceedings against him.

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.

3. Accordingly, it is ordered in the interest of justice that the impugned Annexure-A Final Report/Charge Sheet filed in Crime No.338/2000 of Irinjalakkuda Police Station, which has led to the institution of L.P.No.46/2004 on the file of the Judicial First Class Magistrate Court, Irinjalakkuda and all further proceedings arising therefrom pending against the petitioner 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/- ALEXANDER THOMAS, JUDGE