

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

Crl.MC.No. 4625 of 2014 ()

CRIME NO. 478/2014 OF KAZHAKKUTTOM POLICE STATION , THIRUVANANDAPURAM

PETITIONER(S):

- 1. MANU AGED 23 YEARS**
S/O.RAJAN, MANU NIVAS, PONGARA DESOM
KIZHAKKUMBHAGOM, KAZHAKKUTTAM
THIRUVANANTHAPURAM DISTRICT.
- 2. VISHNU AGED 22 YEARS**
S/O.RAJAN, MANU NIVAS, PONGARA DESOM
KIZHAKKUMBHAGOM, KAZHAKKUTTAM
THIRUVANANTHAPURAM DISTRICT.
- 3. DEEPU**
S/O.APPUKUTTAN, PUTHUVAL PUTHE VEEDU, PONGARA DESOM
KIZHAKKUMBHAGOM, KAZHAKKUTTAM
THIRUVANANTHAPURAM DISTRICT.
- 4. ALAN ROY AGED 21 YEARS**
S/O.ROBINSON, S.R.BHAVAN, NEAR LNCPE WATER TANK
THARIVILA, KAZHAKKUTTAM, THIRUVANANTHAPURAM DISTRICT

BY ADV. SRI.P.ANOOP (MULAVANA)

RESPONDENT(S)/DEFACTO COMPLAINANT:

- 1. STATE OF KERALA**
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.
- 2. SANTHOSH, AGED 37 YEARS**
S/O.WILSON, RESIDING AT SAJITHA BHAVAN
PONGARA THEKKUMBHAGOM, KAZHAKUTTAM P.O.
THIRUVANANTHAPURAM DISTRICT.

R2 BY ADV. SRI.LOWEL CHERIAN
R1 BY PUBLIC PROSECUTOR SMT. P. MAYA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 15-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 4625 of 2014 ()

APPENDIX

PETITIONER(S)' EXHIBITS

**ANNEXURE A1. COPY OF THE FIR IN CRIME NO.478 OF 2014 OF THE KAZHAKUTTOM
POLICE STATION, THIRUVANANTHAPURAM DISTRICT.**

ANNEXURE A2. COPY OF THE AFFIDAVIT FILED BY THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

PA TO JUDGE
sab

P.UBAID, J.

Crl. M.C No.4625 of 2014

Dated this the 15th day of January, 2015.

ORDER

The petitioners herein are the five accused in Crime No.478 / 2014 of the Kazhakkuttom Police Station, registered under Sections 143, 147, 148, 149, 323, 324, 427 & 307 of IPC, on the complaint of one Santhosh. The petitioners have brought this Crl.M.C under Section 482 Cr.P.C to quash the FIR and further proceedings in the said crime, on the ground of amicable settlement made by them and the complainant out of court. Pending the proceeding, the police completed investigation, and submitted final report in court, against the petitioners 1 and 5. On the basis of definite materials collected during investigation the police found that the alleged accused Nos. 2 to 4 had no complicity in the alleged crime, and so they were deleted from the array of accused. Thus there is now final report in the crime only against the petitioners 1 and 5 herein. On the final report the learned Judicial First Class Magistrate II, Attingal has taken cognizance as C.P No.65/2014. Now the main proceeding stands amended incorporating a prayer to quash the prosecution as such, including the final report in C.P No.65/2014.

The de facto complainant Santhosh who sustained injuries in the alleged incident is the second respondent in this proceeding. He has filed affidavit to the effect that the whole dispute stands amicably settled with the petitioners, and that he has no grievance or complaint now. Of course, it is really doubtful whether this is in fact a case of attempted murder coming under Section 307 IPC. Anyway, the parties have now come to terms amicably, and they are now on quite cordial terms. In so many decisions including **Gian Singh V. State of Punjab, 2012 (4) KLT 108 (SC)**, the Hon'ble Supreme Court has held that even in cases involving non compoundable offences, like the one under Section 307 IPC, the High Court can quash prosecution, if the parties have really settled the whole dispute, and continuance of prosecution in such a situation will not serve any purpose. Here I find such a situation of real, genuine and amicable settlement between the parties. I find that continuance of prosecution in such a situation will not serve any purpose, other than wasting the precious time of the committal court and the trial court, because nobody will support the prosecution, if the case ultimately goes to trial.

In the result, this petition is allowed. The prosecution against the

petitioners 1 and 5 herein in C.P No.65/2014 pending before the Judicial First Class Magistrate Court – II, Attingal will stand quashed under Section 482 Cr.P.C. Accordingly, the petitioners will stand released from such prosecution, and the bail bond, if any, executed by them will stand discharged.

P.UBAID,
JUDGE

sab