

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

WEDNESDAY, THE 9TH DAY OF SEPTEMBER 2015/18TH BHADRA, 1937

Crl.MC.No. 5995 of 2015 ()

(AGAINST THE ORDER/JUDGMENT IN CC 168/2011 of J.M.F.C.-III, THRISSUR
CRIME NO. 364/2010 OF OLLUR POLICE STATION , THRISSUR)

PETITIONER(S)/ACCUSED 1 & 2:-:

1. SHINE, AGED 31 YEARS,
S/O.JOSE, CHALISSERYVALAPPILA HOUSE, P.O.OLLUR,
EDAKKUNNY VILLAGE, THRISSUR DISTRICT.

2. JAIN AGED 30 YEARS,
S/O.JOSE, CHALISSERYVALAPPILA HOUSE, P.O.OLLUR
EDAKKUNNY VILLAGE, THRISSUR DISTRICT.

BY ADVS.SRI.P.G.SURESH
SRI.V.HARISH

RESPONDENT(S)/DEFACTO COMPLAINANT/INJURED:-:

1. STATE OF KERALA
REPRESENTED BY SUB INSPECTOR OF POLICE, OLLUR,
THRISSUR DISTRICT, THROUGH THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM - 682 031.

2. JINEESH, AGED 28 YEARS
S/O.RAJAN, KANIMANGALATH HOUSE
ANCHERY NEHRU NAGAR ROAD, P.O.KURIYACHIRA
OLLUR VILLAGE, THRISSUR TALUK - 680 006.

R2 BY ADV. SRI.RAJAN VISHNURAJ
R2 BY ADV. SRI.G.SUDHEER (THURAVOOR)
R BY PUBLIC PROSECUTOR SMT.MAYA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 09-
09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 5995 of 2015 ()

APPENDIX

PETITIONER(S) ' EXHIBITS

ANNEXURE A1. THE CERTIFIED COPY OF THE FIR IN CRIME NO.364/2010,
REGISTERED BY OLLUR POLICE.

ANNEXURE A2. THE CERTIFIED COPY OF THE FINAL REPORT FILED BY THE POLICE
IN C.C.NO.168/2011 PENDING BEFORE THE COURT BELOW.

ANNEXURE A3. THE AFFIDAVIT SIGNED AND EXECUTED BY THE 2ND
RESPONDENT/DEFACTO COMPLAINANT IN THIS CASE.

ANNEXURE A4. THE TRUE COPY OF THE WEDDING CARD FOR THE MARRIAGE OF THE
1ST PETITIONER/1ST ACCUSED.

RESPONDENT(S) ' EXHIBITS

/TRUE COPY/ PS TO JUDGE.

SUNIL THOMAS, J.

Crl.M.C. No.5995 of 2015

Dated this the 9th day of September, 2015

JUDGMENT

This Crl.M.C. arises from the final report in C.C.No.168/2011 in Crime No.364/2010 of Ollur Police Station, pending before Judicial First Class Magistrate Court III, Thrissur for offences punishable under Sections 452,341,323,294(b),506 (1),427 read with Section 34 I.P.C.

2. The allegation of the de-facto complainant, who is the 2nd respondent herein, is that on 16/4/2010, at about 3.30 p.m., the petitioners herein, who are brothers, trespassed into the house of the de-facto complainant and attacked him with hands and used abusive language. It is further alleged that the petitioner attacked to the house and caused damage to a sum of Rs.10,000/-. Pursuant to the complaint filed, crime was registered and after investigation the final report was filed. Contending that the dispute arises from a dispute of civil nature and that the matter has been amicably and cordially settled between the parties, the petitioners have approached this Court, with a prayer to quash the further proceedings.

3. Pursuant to the notice, the 2nd respondent has appeared and filed an affidavit stating that the matter has been settled between the parties. He has further stated that the matter was mediated upon and ultimately settled and he has no objection in quashing all further proceedings in the case.

4. Evidently, the parties are neighbours. No weapon is used. It is also claimed by the petitioners that they were the family friends of the 2nd respondent. It is further alleged that the matter has a tinge of civil nature also.

5. The available materials indicate that, though the allegation is very serious, no weapon is seen used. It is also seen that substantial injuries were not caused. The main eye witness to the incident is the 2nd respondent herein, who himself has no grievance now. Hence, continuation of the proceedings will only result in mis-carriage of justice, if the de-facto complainant is not likely to stand by the prosecution case, at the trial.

6. Following the principles laid down by the Supreme Court in **Yogendra Yadav v. State of Jharkhand** (2014 (8) SCALE 634) I feel that the further proceedings are liable to be quashed, in the interest of justice.

In the result, the Crl.M.C. is allowed. The final report in

C.C. No.168/2011 and all further proceedings thereupon stand quashed.

Sd/-

SUNIL THOMAS
Judge

dpk

/true copy/ PS to Judge.