

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 10TH DAY OF SEPTEMBER 2015/19TH BHADRA, 1937

Crl.MC.No. 6079 of 2015 ()

**SC 1167/2014 of ADDITIONAL SESSIONS COURT-III, KOZHIKODE
CRIME NO. 34/2014 OF THAMARASSERY POLICE STATION , KOZHIKODE DISTRICT**
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PETITIONERS/ACCUSED:

- 1. ABOO, AGED 58 YEARS, SON OF BEERAN KUTTY
58 YEARS, MOKAYIKKAL, VETTIOZHINJA THOTTAM
KATTIPARA, KOZHIKODE DISTRICT.**
- 2. ABDUL RASHID, SON OF ABOO, AGED 28 YEARS, MOKAYIKKAL
VETTIOZHINJA THOTTAM, KATTIPARA, KOZHIKODE DISTRICT.**
- 3. HARRIS, SON OF ABOO
26 YEARS, MOKAYIKKAL, VETTIOZHINJA THOTTAM
KATTIPARA, KOZHIKODE DISTRICT.**
- 4. RASHIQUE, SON OF SUDHEER
19 YEARS, THEKKE PARAMBIL, KATTIPARA
THAMARASSERY, KOZHIKODE DISTRICT.**
- 5. RAFEEQUE, SON OF IBRAHIM
24 YEARS, VARIKKEDANPARAMBIL, THALAYAD
UNNIKULAM, KOZHIKODE DISTRICT.**

BY ADV. SRI.K.A.SALIL NARAYANAN

RESPONDENTS/STATE AND INJURED:

- 1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA ERNAKULAM. 682 031.**
- 2. NADEERA, W/O.ASHRAF
38 YEARS, POMBACHLIL HOUSE, KATTIPARA
THEKKINTHOTTAM, KOZHIKODE DISTRICT- 673 001.**
- 3. ASHRAF, SON OF KHADER
AGED 45 YEARS, POMBACHLIL HOUSE, KATTIPARA
THEKKINTHOTTAM, KOZHIKODE DISTRICT- 673 001.**
- 4. ASHIK, SON OF ASHRAF
22 YEARS, POMBACHLIL HOUSE, KATTIPARA
THEKKINTHOTTAM, KOZHIKODE DISTRICT- 673 001.**

**R2-R4 BY ADV. SRI.B.HARISH KUMAR
R BY PUBLIC PROSECUTOR**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 10-09-
2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONERS' EXHIBITS

**ANNX.1 - COPY OF THE FIR AND CHARGE SUBMITTED BY THE POLICE IN CRIME
34/14 (LEADING TO SC 1167/14 BEFORE THE 3RD ADDITIONAL SESSIONS
COURT, KOZHIKODE)**

ANNX.2 - AFFIDAVIT SWORN TO BY THE 2ND RESPONDENT

ANNX.3 - AFFIDAVIT SWORN TO BY THE 3RD RESPONDENT

ANNX.4 - AFFIDAVIT SWORN TO BY THE 4TH RESPONDENT.

RESPONDENTS' EXHIBITS

NIL

TRUE COPY

P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C. No.6079 of 2015

Dated this the 10th day of September, 2015

O R D E R

The petitioners herein are the accused in S.C.1167/2014 of the Additional Sessions Court, Kozhikode. They seek orders quashing the prosecution on the ground of amicable settlement of the whole dispute between them and the de facto complainant. Crime in this case was registered under Sections 143, 147, 148, 452, 323, 324 308 and 427 read with 149 IPC, on the complaint of one Nadeera, who is the 2nd respondent in this proceeding brought under Section 482 of the Code of Criminal Procedure. She has filed affidavit to the effect that she has settled the whole dispute with the accused and she has no grievance or complaint now. The other persons who sustained injuries in the alleged incident are the 3rd and 4th respondents in this proceeding. They have also filed affidavit to the effect that they have settled the whole dispute with the accused and they have no grievance or complaint now.

2. On a perusal of the materials including the complaint and the final report, I find nothing definite to attract Section 308 IPC. It appears that the police incorporated such section on the basis

of a purely hypothetical statement. Any way, the dispute stands resolved forever.

3. In so many decisions, the Hon'ble Supreme Court has held that even in cases involving non-compoundable offences, the High Court can quash the prosecution in pending proceedings, if the parties have really settled the whole dispute amicably out of court, and continuance of further proceedings will not serve any purpose in such a circumstance of amicable settlement. Here, I find a real and genuine case of settlement between the parties. This is not a case involving any public interest or public issue. The parties have come to terms amicably on the intervention of persons acceptable to both sides, and I am satisfied that the parties are now on quite cordial terms. In such a situation, continuance of the prosecution will not serve any purpose other than wasting the precious time of the court. No doubt, nobody will support the prosecution in such a situation, if the case goes to trial.

In the result, this petition is allowed. The prosecution against the petitioners herein in S.C.1167/2014 of the Additional Sessions Court, Kozhikode will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioners will

stand released from prosecution and the bail bond, if any, executed by them will stand discharged.

Sd/-

P. UBAID, JUDGE

sd