

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

TUESDAY, THE 22ND DAY OF SEPTEMBER 2015/31ST BHADRA, 1937

CrI.MC.No. 6126 of 2015 ()

AGAINST THE ORDER IN ST 622/2015 of J.M.F.C.,NEDUMKANDOM
CRIME NO. 157/2015 OF NEDUMKANDAM POLICE STATION , IDUKKI

PETITIONERS/ACCUSED:

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1. ANOOP, AGED 25 YEARS,
S/O.MANIYAN, PUTHANPURAKKA (HOUSE), KOMBAYAR
PARATHODU VILLAGE, IDUKKI DISTRICT.
 2. S.MANOJ, AGED 41 YEARS,
S/O.SREEDHARAN, MATHILITTA THARAYIL (HOUSE), KOMBAYAR
PARATHODU VILLAGE, IDUKKI DISTRICT.
 3. SREENIVASAN @ SREENI, AGED 43 YEARS,
S/O.KARUNAKARAN, ATTUVALLIKATTU (HOUSE), KOMBAYAR
PARATHODU VILLAGE, IDUKKI DISTRICT.
 4. SUKUMARAN, AGED 52 YEARS,
S/O.RAMAN, THAKIDIYIL (HOUSE), VASUKUTTAN PARA,
KOMBAYAR, PARATHODU VILLAGE, IDUKKI DISTRICT.

BY ADV. SMT.G.VIDYA

RESPONDENTS/COMPLAINANT:

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1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
 2. T.N.ASHOKAN, AGED 52 YEARS,
S/O.NARAYANAN, THATTAMPARAMBIL (HOUSE), KOMBAYAR
PARATHODU, UDUMBANCHOLA (PO), IDUKKI DISTRICT
PIN-685 554.

R2 BY ADV. SRI.JESWIN P.VARGHESE

R1 BY PUBLIC PROSECUTOR SMT. SAREENAP. GEORGE

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 22-09-2015, THE

COURT ON THE SAME DAY PASSED THE FOLLOWING:

CrI.MC.No. 6126 of 2015 ()

APPENDIX

PETITIONERS' ANNEXURE:

ANNEXURE A: THE CERTIFIED COPY OF FINAL REPORT REGISTERED AS ST NO.622/2015 ON THE FILE OF JUDICIAL FIRST CLASS MAGISTRATE COURT, NEDUMKANDOM.

ANNEXURE B : THE AFFIDAVIT SWORN BY THE 2ND RESPONDENT DATED 10-8-2015.

RESPONDENTS'ANNEXURES: NIL

/TRUE COPY/

P.S TO JUDGE

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K. RAMAKRISHNAN, J.

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Crl.M.C.No.6126 of 2015

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Dated this the 22nd day of September, 2015.

O R D E R

This petition is filed by the accused in S.T.No.622/2015 on the file of the Judicial First Class Magistrate Court, Nedumkandom on the basis of a settlement under section 482 of the Code of Criminal Procedure.

2. It is alleged in the petition that the petitioners were neighbours and on account of some misunderstanding, there was an incident occurred, in which the second respondent sustained some injuries. So on the basis of the statement given by the second respondent, Crime No.157/2015 of Nedumkandom police station was registered against the petitioners alleging offences under sections 323 and 294(b) read with section 34 of the Indian Penal Code.

3. After investigation, final report was filed and it was taken on file as ST.No.622/2015 on the file of the Judicial First Class Magistrate, Nedumkandom under sections 323 and 294(b) read with section 34 of the Indian Penal Code. The matter has been now settled between the parties. There is no possibility

for conviction. Since some of the offences are non compoundable in nature, they could not file any application before the court below. So they have no other remedy except to approach this Court seeking the following reliefs:

“For these and other grounds to be urged at the time of hearing this Hon'ble Court may be pleased to quash Annexure- A Final Report and all further proceedings in S.T.No.622/2015 on the files of the Judicial First Class Magistrate Court, Nedumkandom to meet the ends of justice”.

4. The second respondent appeared through counsel and submitted that the matter has been settled between the parties and he has no objection in quashing the proceedings and he had filed an affidavit stating these facts.

5. Learned Public Prosecutor Smt. Sareena George appearing for the first respondent submitted that there is no other case against the petitioners, but it is not a fit case to be quashed.

6. It is an admitted fact that there was some dispute arose between the petitioners and the second respondent in respect of taking water from the borewell established by the

panchayat and on the basis of the statement given by the second respondent, a crime was registered as Crime No.158/2015 against the petitioners alleging offences under sections 323 and 294(b) read with section 34 of the Indian Penal Code and on the basis of the statement given by one of the accused in the case, another crime was registered as Crime No.158/2015 of the same police station. After investigation, final report was filed in both the cases and this case was taken on file as ST.No.622/2015, whereas other case was taken on file as C.C.No.199/2015 both on the files of the Judicial First Class Magistrate, Nedumkandom. Both the cases were settled between the parties due to intervention of mediators and their relationship has been restored. The second respondent also filed an affidavit stating these facts. Both the counsel submitted that other case was also quashed by this Court as per order in Crl.M.C.No.633/2015 dated 14.9.2015. Parties are neighbours and belonging to the same locality. There was no serious injury sustained. Even going by the allegations, the offence under section 294(b) of the Indian Penal Code is not attracted. Since the matter has been settled between the

parties, conviction in such case is remote.

7. Further, in the decision reported in ***Gian Singh v. State of Punjab*** [2012 (4)KLT 108(SC)] this court has held that in cases where criminal case has been registered in respect of incident occurred due to family dispute and dispute between neighbours without any public interest and if the matter has been settled between the parties, merely because some non compoundable offence is incorporated, will not fetter right of this court to invoke power under section 482 of the Code of Criminal Procedure to quash the proceedings to promote settlement and harmony restored between the parties.

8. In view of the dictum laid down in the above decision and also considering the fact that it is a private dispute between parties in respect of drawing of water from public borewell, which resulted in registration of case and counter and counter case and counter case was already quashed by this court in another proceedings on account of the settlement and proceeding in this case will only amount to wastage of judicial time and conviction in such case is not remote, this Court feels that it is a fit case where power section 482 has to be

invoked to quash the proceedings in order to promote settlement and harmony that has been restored between the parties and pending of this case should not be a hurdle for the same.

9. So the application is allowed. Further proceedings in ST.No.622/2015 (Crime No.157/2015 of Nedumkandom police station on the file of the Judicial First Class Magistrate, Nedumkandom as against the petitioners is hereby quashed.

Office is directed to communicate a copy of this order to the concerned court immediately.

Sd/-
K. RAMAKRISHNAN, JUDGE.

/true copy/

P.S to Judge

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