

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 14TH DAY OF SEPTEMBER 2015/23RD BHADRA, 1937

Cr1.MC.No. 6141 of 2015

IN CC 1284/2015 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-
II, HOSDRUG
CRIME NO.1012/2011 OF HOSDURG POLICE STATION, KASARGOD

PETITIONERS/ACCUSED NOS.1 TO 6:

1. NOUFEL, AGED 26 YEARS,
S/O.MUHAMMED, PUTHIYAKANDAM HOUSE, KALLURAVI,
KANHANGAD, KASARAGOD DISTRICT.
2. MUHAMMED RIFAYI C.B, AGED 23 YEARS,
S/O.ABDUL MAJEED, BAITHUL LATHIFIYA HOUSE, PANJAVI,
SADAM MUKKU, KANHANGAD, KASARAGOD DISTRICT.
3. SUHAIB M.V, AGED 24 YEARS,
S/O.UMMER, NALLUPARAPATTIL HOUSE, PALATTE,
MOOKARIKUNDU, KANHANGAD, KASARAGOD DISTRICT.
4. SHAREEF U, AGED 26 YEARS,
S/O.RIYAS, PATTIYILLATH HOUSE, OZHINJAVALLAPPU,
NHANIKADAVU, KANHANGAD VILLAGE, KASARAGOD DISTRICT.
5. HARISH C.P, AGED 22 YEARS,
S/O.MUHAMMED RAFEEQ, PUNJAVI HOUSE, PATTAKKAL,
KANHANGAD VILLAGE, KASARAGOD DISTRICT.
6. ASHRAF @ CHIRIKUDUKKA ASHRAF, AGED 27 YEARS,
S/O.MOIDUTTEYI, KALLOORUVI HOUSE,
KANHANGAD VILLAGE,
KASARAGOD DISTRICT.

BY ADV. SRI.K.P.HARISH

RESPONDENTS/STATE,DEFACTO COMPLAINANT & WITNESSES (CWS 1 TO 3):

1. STATE OF KERALA
THROUGH STATION HOUSE OFFICER,
HOSDURG POLICE STATION (CRIME NO.1012/2011)
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

2. MUSTHAFA C.P., AGED 44 YEARS,
S/O.ABDUL KHADER, R/AT NHANIKADAVU HOUSE,
P.O.OZHINHAVALAPPU, KANHNGAD VILLAGE,
HOSDURG TALUK,
KASARAGOD DISTRICT.
 3. ABOOBACKER, AGED 44 YEARS,
S/O.ASSINAR, R/AT NHANIKADAVU HOUSE,
P.O.OZHINHAVALAPPU, KANHNAGAD VILLAGE,
HOSDURG TALUK,
KASARAGOD DISTRICT.
 4. LATHEEF (MINOR), AGED 15 YEARS
S/O.KUNHAMI C.P.
REPRESENTED BY HIS NEXT FRIEND GUARDIAN
MOTHER KUNHAMI C.P,AGED 46 YEARS,
W/O.HASSAINAR, R/AT KIZHAKKEYIL HOUSE,
NHANIKADAVU P.O., OZHINHAVALAPPU, KANHNAGAD VILLAGE
HOSDURG TALUK, KASARAGOD DISTRICT.
- R2 TO R4 BY ADV. SRI.M.T.SURESHKUMAR
R1 BY PUBLIC PROSECUTOR SMT.SHEEBA M.T

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 14-09-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

Cr1.MC.No. 6141 of 2015

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE-A1: COPY OF THE FIR AND FI STATEMENT DATED 30.09.2011
IN CRIME NO.1012 OF 2011 OF HOSDURG POLICE STATION.

ANNEXURE-A2: COPY OF THE FINAL REPORT DATED 30.03.2012 IN
CRIME NO.1012/2011 AS NUMBERED AS C.C.NO.2160/2012 ON THE FILE
OF JUDICIAL FIRST CLASS MAGISTRATE COURT-I, HOSDURG.

ANNEXURE-A3: COPY OF THE AFFIDAVIT DATED 10.08.2015 SIGNED
BEFORE AN ADVOCATE BY THE CW1/RESPONDENT NO.2.

ANNEXURE-A3(A): COPY OF THE AFFIDAVIT DATED 10.08.2015 SIGNED
BEFORE AN ADVOCATE BY THE CW2/RESPONDENT NO.3.

ANNEXURE-A3(B): COPY OF THE AFFIDAVIT DATED 10.08.2015 SIGNED
BEFORE AND ADVOCATE BY THE RESPONDENT NO.4 FOR AND ON BEHALF
OF CW3.

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

ab

P.UBAID, J.

Crl.M.C No.6141 of 2015

Dated this the 14th day of September, 2015

O R D E R

The petitioners herein are the six accused in C.C No.1284/2015 of the Judicial First Class Magistrate Court II, Hosdurg. 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, 341, 323, 325 r/w 149 of the Indian Penal Code, on the complaint of one Musthafa who is the 2nd respondent in this proceeding brought under Section 482 of the Code of Criminal Procedure. He has filed affidavit to the effect that he has settled the whole dispute with the accused, and he has no grievance or complaint now.

2. The other persons who sustained injuries in the alleged incident are the 3rd and 4th respondents in this proceeding. The 3rd respondent and also the mother of the 4th respondent have filed affidavit, on behalf of the 4th respondent, to the effect that the whole dispute stands settled.

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 the prosecution 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. 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 C.C No.1284/2015 of the Judicial First Class Magistrate Court II, Hosdurg 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.

**P.UBAID
JUDGE**

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