

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE B.KEMAL PASHA**

**MONDAY, THE 28TH DAY OF SEPTEMBER 2015/6TH ASWINA, 1937**

**Crl.MC.No. 6354 of 2015 ()**  
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**CP 23/2015 of ADDITIONAL CHIEF JUDICIAL MAGISTRATE COURT,  
THIRUVANANTHAPURAM DISTRICT**  
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**PETITIONER/ACCUSED :**  
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**SUMAN GOPAN, AGED 28 YEARS,  
S/O. GOPAKUMAR, RESIDING AT T.C.44/751,  
KRIPA HOUSE, NEAR FCI GODOWN,  
VALIYATHURA WARD, THIRUVANANDAPURAM**

**BY ADV. SRI.A.ABDUL HAKKIM**

**RESPONDENTS/STATE AND COMPLAINANT :**  
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- 1. THE STATE OF KERALA, REPRESENTED BY THE  
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,  
ERNAKULAM, KOCHI - 31.**
- 2. RATHEESH, AGED 29 YEARS, S/O. RATNAM,  
RESIDING AT PADAYARAVILA VEEDU,  
T.C. 18/9, THRIKKANNAPURAM, THIRUMALA,  
THIRUVANANDAPURAM - 695011.**

**R1 BY PUBLIC PROSECUTOR SMT. LILLY LESSLIE  
R2 BY ADV. SRI.S.JUSTUS**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION  
ON 28-09-2015, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:**

**bp**

**Crl.MC.No. 6354 of 2015 ()**

**APPENDIX**

**PETITIONER'S ANNEXURES :**

**ANNEXURE I: CERTIFIED COPY OF THE FIR IN CRIME NO. 234/2015 POOJAPURA  
POLICE STATION.**

**ANNEXURE II: COPY OF THE FINAL REPORT IN CP NO. 23/2015 ON THE FILES OF  
ACJM, THIRUVANANTHAPURAM.**

**ANNEXURE III: AFFIDAVIT SWORN BY THE R2 BEFORE THE ADVOCATE NOTARY.**

**RESPONDENT'S ANNEXURES :                      NIL.**

**//TRUE COPY//**

**P.A.TO JUDGE**

**bp**

**B. KEMAL PASHA, J.**

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Crl.M.C. No.6354 of 2015 F  
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*Dated this the 28<sup>th</sup> day of September, 2015*

**ORDER**

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Petitioner is the accused in CP No.23/2015 of the Additional Chief Judicial Magistrate's Court, Thiruvananthapuram, which has arisen from Crime No.234/2015 of Poojappura Police Station for the offences punishable under Sections 294(b), 323, 506(i) and 308 IPC. The main allegation against the petitioner is that he slapped on the cheek of the de facto complainant and when the de facto complainant fell down, he attempted to hit him with a stone and the same was evaded by the de facto complainant.

2. Presently, the matter has been settled between

the parties. It seems that apart from the contusion sustained on account of the slapping on the cheek, no other injuries have been noted on the body of the de facto complainant. The petitioner is the brother-in-law of the de facto complainant.

3. The de facto complainant, who is the 2<sup>nd</sup> respondent herein, has filed Annexure-III affidavit affirming the settlement arrived at between them. On going through the facts and circumstances of the case, it is evident that there is nothing to invite an offence under Section 308 IPC and the main offence that can be invited is the one under Section 323 IPC. Considering the relationship between the parties, the settlement arrived at in between them, and the facts and circumstances of the case, this Court is of the view that all further proceedings in CP No.23/2015 of the Additional Chief Judicial Magistrate's Court, Thiruvananthapuram as against the petitioner can be quashed.

In the result, this CrI.M.C. is allowed and all further proceedings in CP No.23/2015 of the Additional Chief Judicial Magistrate's Court, Thiruvananthapuram as against the petitioner are quashed.

Sd/-  
**(B.KEMAL PASHA, JUDGE)**

aks/28/09

*// True Copy //*

*PA to Judge*