

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 4TH DAY OF MARCH 2015/13TH PHALGUNA, 1936

Cr1.MC.No. 5314 of 2014

AGAINST LP 42/2013 of ADDL. SESSIONS COURT, THRISSUR

AGAINST SC 852/2010 OF THE ADDL.SSESSIONS COURT, THRISSUR
CRIME NO. 403/2007 OF CHAVAKKAD POLICE STATION, THRISSUR

PETITIONER/ACCUSED NO.1:

UNNIMON @ VIJEESH,
S/O THARAYIL VEETIL RAGHAVAN, THARAYIL HOUSE,
THIRUVATHRA DESOM, MANATHALA,
THRISSUR.

BY ADVS.SRI.N.N.SUGUNAPALAN (SR.)
SRI.S.SUJIN

RESPONDENT/RESPONDENT:

STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM

BY PUBLIC PROSECUTOR SMT.S.HYMA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 04-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 5314 of 2014

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A1 : COPY OF THE CERTIFIED COPY OF THE FIR IN CRIME
NO.403/2007 OF CHAVAKKAD POLICE STATION FILED BEFORE THE JFCM,
CHAVAKKAD

ANNEXURE A2 : COPY OF THE JUDGMENT DATED 21.06.2014 IN SC
NO.1193/2008 OF THE FIRST ADDITIONAL SESSIONS JUDGE, THRISSUR

RESPONDENT'S ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.5314 of 2014

Dated this the 4th day of March, 2015

O R D E R

The petitioner herein is the 1st accused in S.C No.1193/2008 of the 1st Additional Assistant Sessions Court, Thrissur. Crime in this case was registered under Sections 143, 147, 148, 341, 323, 324 and 308 of the Indian Penal Code. Of the five accused, accused Nos.2, 4 and 5 faced trial before the learned 1st Additional Assistant Sessions Judge, Thrissur and obtained a judgment of acquittal under Section 235 of the Code of Criminal Procedure when all the material witnesses including the first informant/de facto complainant turned hostile to the prosecution in view of an amicable settlement made by the parties out of court. The case against the petitioner herein was split up when he absconded during the trial process. It was refiled as S.C No.852/2010 before the same court, and it stands transferred to the register of long pending cases as L.P No.42/2013.

2. 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. I find that Section 308 IPC was incorporated by the police on the basis of some hypothetical statement. 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 petitioner herein in S.C. No.852/2010 (now pending as L.P No.42/2013) of the 1st Additional Assistant Sessions Court, Thrissur will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioner will stand released from prosecution.

**P.UBAID
JUDGE**

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