

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 12TH DAY OF FEBRUARY 2015/23RD MAGHA, 1936

Crl.MC.No. 5323 of 2014 ()

**CC 296/2012 of C.J.M.,KASARAGOD
CRIME NO. 301/2011 OF KUMBLA POLICE STATION , KASARGOD**

PETITIONER(S)/ACCUSED 1 & 3 TO 12.:

- 1. B.K.KHADER AGED 48 YEARS
S/O. UPPAKUNHI, NEERPANTHI HOUSE, SUBBAIAHKKADA
PAIVALIKE, KASARAGOD.**
- 2. ANTHUNHI KOODATHADKA, AGED 55 YEARS
S/O. KUNHALI, KOODATHADKA, CHEPPAR
PAIVALIKE, KASARAGOD.**
- 3. SIDDIQUE AGED 48 YEARS
S/O. MUHAMMED, CHEVAR HOUSE, KUDALMARKKALA
PAIVALIKE, KASARAGOD.**
- 4. MUHAMMED MUNABADY, AGED 43 YEARS
S/O. HASSANKUTTY, LINGARADUKKA HOUSE, KUDALMARKKALA
PAIVALIKE, KASARAGOD.**
- 5. ABDULLA THURUTHY, AGED 58 YEARS
S/O. KUDI AMMI, CHEVAR HOUSE, KUDALMARKKALA
PAIVALIKE, KASARAGOD.**
- 6. HARIS, AGED 31 YEARS
S/O. ABDUNHI, PACHAMPALLAM HOUSE, KAYYAR
MANGALPPADY, KASARAGOD.**
- 7. MUTHALIB, AGED 26 YEARS
S/O. BAPPUNHI, CHEVAR HOUSE, KUDALMARKKALA
PAIVALLIKE, KASARAGOD.**
- 8. ALI ARIMOOLA AGED 33 YEARS
S/O. SALIM, ARIMOOLA HOUSE, KUDALMARKKALA
PAIVALIKE, KASARAGOD.**
- 9. SIRAJ, AGED 26 YEARS
S/O. IBRAHIM, APPAGURI HOUSE, KUDALMARKKALA
PAIVALIKE, KASARAGOD.**
- 10. KHALEEL AGED 26 YEARS
S/O. PAKKUNHI, PETHAMoola HOUSE, KUDALMARKKALA**

PAIVALIKE, KASARAGOD.

11. IBRAHIM.D.T. AGED 43 YEARS
S/O. IDDEENKUNHI, MADALAKKANDA HOUSE
KUDALMARKKALA, PAIVALIKE, KASARAGOD.

BY ADV. SRI.S.JIJI

RESPONDENT(S)/STATE & DE-FACTO COMPLAINANT:

1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

2. C.K. KHADERKUNHI, AGED 59 YEARS
S/O. ABDUL RAHIMAN, KUNDAPPU HOUSE, KUDALMARKKALA
PAIVALIKE, KASARAGOD 691121.

R2 BY ADV. SMT.K.S.SANTHI
R BY PUBLIC PROSECUTOR SMT.S.HYMA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

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Crl.MC.No. 5323 of 2014 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANX.A1. TRUE COPY OF FIR IN CR. 301/2011 OF KUMBALA POLICE STATION.

ANX.A2. CERTIFIED COPY OF FINAL REPORT IN CR. NO. 301/2011 OF KUMBALA POLICE STATION.

ANX.A3. AFFIDAVIT DATED 11-9-2014 SWORN BY THE 2ND RESPONDENT.

ANX.A4. TRUE COPY OF JUDGMENT IN O.S.No.138/2014 OF ADDL.MUNSIFF'S COURT, KASARAGOD DATED 11.08.2014.

ANX.A5. TRUE COPY OF THE LETTER DATED 17.11.2014 ISSUED BY THE PRESENT COMMITTEE PRESIDENT.

RESPONDENT(S)' EXHIBITS - NIL

//TRUE COPY//

P.A. TO JUDGE

Imp

P.UBAID, J.
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**Crl.M.C No.5323 of 2014**  
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Dated this the 12th February, 2015

ORDER

The petitioners herein are the accused Nos. 1 & 3 to 12 in C.C No.296/2012 of the Chief Judicial Magistrate Court, Kasaragod. Accused No.2 died pending the proceedings. The petitioners 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 120 B, 420, 465, 467, 468, 479 and 472 of the IPC on the complaint of one C.K.Khaderkunhi, who is the second 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.

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, 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 CC No.296/2012 of the Chief Judicial Magistrate's Court 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**

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//TRUE COPY//

P.A. TO JUDGE

