

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 4TH DAY OF NOVEMBER 2015/13TH KARTHIKA, 1937

Crl.MC.No. 6536 of 2015

**CC 11/2015 OF CHIEF JUDICIAL MAGISTRATE COURT, KOZHIKODE
CRIME NO. 345/2007 OF KASABA POLICE STATION , KOZHIKODE**

PETITIONER(S)/ACCUSED:

1. SHIBITH K.J,
S/O.JACOB K.G, KANIVAYALIL HOUSE, PUTHUKURISSI.P.O.,
THACHAMPARA VILLAGE, PALAKKAD DISTRICT.
2. J.SAINUDHEEN,
S/O.ENU, THIRUVALAPATTA HOUSE, MUKKALI,
KALLAMALA VILLAGE, ATTAPADI, PALAKKAD DISTRICT.
3. DAS @ KRISHNADAS,
S/O.KESAVAN, KUNDAVAMPADAM HOUSE, KARIMBA.P.O.,
PANAYAPPADAM, PALAKKAD DISTRICT.

**BY ADVS.SRI.BABU S. NAIR
SRI.R.RANJITH (K/489/2011)**

RESPONDENT(S)/STATE, DEFACTO COMPLAINANT & INJURED:

1. THE STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-682 031,
THROUGH THE SUB INSPECTOR OF POLICE,
KOZHIKKODE KASABA POLICE STATION,
KOZHIKKODE DISTRICT.
2. P.SURESH KUMAR,
S/O.P.S.NARAYANAN NAIR, PARAKKATTU HOUSE, THENARI.P.O.
ELAPULLY, PALAKKAD DISTRICT, PIN-678 622.
3. A.K.RAMESH,
S/O.A.K.KRISHNAN, KRISHNA HOUSE, THECHIPULLY,
MUNDOOR AMSOM, ANAPPARA, PALAKKAD DISTRICT
PIN-678 592.

**R2-3 BY ADV. SMT.M.LISHA
R1 BY PUBLIC PROSECUTOR SMT.SAREENA**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 04-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' ANNEXURES

**ANNEXURE A- TRUE COPY OF THE CHARGE IN CRIME NO.345/2007 OF THE
KOZHIKKODE KASABA POLICE STATION.**

**ANNEXURE B- TRUE COPY OF THE AFFIDAVIT SWORN TO BY THE 2ND RESPONDENT
DATED, 3.10.2015.**

**ANNEXURE C- TRUE COPY OF THE AFFIDAVIT SWORN TO BY THE 3RD RESPONDENT
DATED, 3.10.2015.**

RESPONDENT(S)' ANNEXURES

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

B. KEMAL PASHA, J.

.....
CRL.M.C. No. 6536 of 2015
.....

Dated this the 4th day of November, 2015

ORDER

Heard the learned counsel for the petitioners and the learned Public Prosecutor.

2. It seems that petitioners are A1 to A3 in Crime No.345/2007 of the Kasaba Police Station, Kozhikode. A final report was filed in the matter. The learned Public Prosecutor submits that A2, who is the 2nd petitioner herein, was already acquitted in the trial against him, and the case against A1 and A3 was split up. Therefore, the present Crl.M.C., as far as the 2nd petitioner is concerned, is not maintainable.

3. With regard to the other accused, it seems that their case is presently pending as C.C.No.270/07. The

offences alleged against the petitioners are under Sections 294(b), 323, 324 and 332 read with Section 34 IPC. According to the petitioners, the matter has been amicably settled between them and the defacto complainant and the other injured in the case. As far as the offence under Section 332 IPC is concerned, this Court cannot accept or endorse any settlement arrived at between the parties, especially when the liability is not that of personal in nature.

4. The learned counsel for the petitioners submits that a non bailable warrant is pending against the petitioners in C.C.No.11/15 before the Chief Judicial Magistrate's Court, Kozhikode. It is for the petitioners to face the trial before the court below. In such a case, even though this Court cannot endorse the settlement arrived at between the parties, the court below can take note of that fact, while disposing of the matter. The court below shall take the case out of turn and shall expedite its disposal, by taking note of the fact that the matter stands settled.

With the above said observations, this Crl.M.C. is disposed of.

ul/- **Sd/- B.KEMAL PASHA, JUDGE**

[True copy]

P.S. to Judge