

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 18TH DAY OF FEBRUARY 2015/29TH MAGHA, 1936

Crl.MC.No. 5378 of 2014 ()

AGAINST CC 228/2013 of C.J.M.,KASARAGOD
CRIME NO. 101/2012 OF KASARAGOD POLICE STATION , KASARGOD

PETITIONER(S)/ACCUSED 1 TO 5:

1. MOHAMMED FAYAS B.A. AGED 21 YEARS
S/O.MUHAMMED, RIZWANA MANZIL, MUTTATHODY
CHENGALA KASARAGOD.
2. AHAMAMED ASHFAK AGED 23 YEARS
S/O.ABOOBAKER, KUNNERIYATHKUNNIL HOUSE
CHEMNAD POST & VILLAGE, KASARAGOD.
3. HASHIK ABDULLA AGED 24 YEARS
S/O.ABOOBAKER, RIVER VIEW HOUSE, PARANALAM
PEROOR CHENGALA, KASARAGOD.
4. FAZIL FAYAS AGED 23 YEARS
S/O.MUHAMMEDKUNHI, BAITHUL FOUZI HOUSE
CHENGALA POST & VILLAGE, KASARAGOD
5. MOIDEEN NIZAMUDDIN AGED 19 YEARS
S/O.HASSAINAR M.A., SHAIMA MANZIL
RAHMATH NAGAR MALLAM, MULIYAR, KASARAGOD.

BY ADV. SRI.S.JIJI
RESPONDENT(S)/STATE & INJURED:

1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.
2. SHREEJITH M., AGED 27 YEARS
S/O.P.BHASKARAN, MECHOLAM HOUSE, MUNNAD
KASARAGOD- 691 121.
3. RAJESH C., AGED 22 YEARS
S/O.K.NARAYANAN, PALLAMTHADKA, MOVVAR
KUMBADAJE, KASARAGOD-691123.
4. RAHUL B.K., AGED 22 YEARS
S/O.KORAGAN, AISWARYANILAYAM, BARADUKKA
NEKRAJE VILLAGE, KASARAGOD - 691123
5. KRIPEESH, AGED 22 YEARS
S/O.KRISHNAN, MOODAMKULAM, KARADUKKA
KASARAGOD - 691123.

R2-5 BY ADV. SMT.K.S.SANTHI
R BY PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
18-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 5378 of 2014 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNX.A1 - CERTIFIED COPY OF F.I.R IN CR.101/2012 OF KASARAGOD POLICE STATION

ANNX.A2 - CERTIFIED COPY OF FINAL REPORT IN CR.101/2012 OF KASARAGOD POLICE STATION

ANNX.A3(A)- AFFIDAVIT DATED 22-4-2014 SWORN BY THE 2ND RESPONDENT

ANNX.A3(B) - AFFIDAVIT DATED 21-4-2014 SWORN BY THE 3RD RESPONDENT.

ANNX.A3(C) - AFFIDAVIT DATED 21-4-2014 SWORN BY THE 4TH RESPONDENT.

ANNX.A3(D) - AFFIDAVIT DATED 10-5-2014 SWORN BY THE 5TH RESPONDENT.

RESPONDENT(S)' EXHIBITS

/TRUE COPY/

P.S TO JUDGE

P.UBAID, J.
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**Crl.M.C No.5378 of 2014**  
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Dated this the 18th February, 2015

O R D E R

The petitioners herein are the five accused in C.C No.228 of 2013 of the Chief Judicial Magistrate's Court, Kasaragod. 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, 148, 341, 323 and 324 read with 149 of Indian Penal Code on the complaint of one Shreejith, 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 respondents 3 to 5 in this proceeding. They have also filed separate affidavit to the effect that they have settled the whole dispute with the accused, and they have no grievance or complaint now.

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, 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 C.C No.228 of 2013 of the Chief Judicial Magistrate's Court, Kasaragod 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.S to Judge