

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

MONDAY, THE 6TH DAY OF JULY 2015/15TH ASHADHA, 193

Cri.MC.No. 5383 of 2014

C.C.NO.117/2014 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-III,
KOZHIKODE
CRIME NO. 808/2012 OF KASABA POLICE STATION , KOZHIKODE

PETITIONER(S)/ACCUSED 1 & 2 :

1. BIJOY, AGED 37 YEARS,
S/O.GOPI, PUTHUPPALLI, MULANGU DESOM,
THOTTIPAL VILLAGE, THRISSUR DISTRICT.
2. THEJUS PURUSHOTHAMAN, AGED 44 YEARS,
S/O.PURUSHOTHAMAN, RAMANEEYAM, AVITTATHOOR,
VELURKKARA, THRISSUR DISTRICT.

BY ADVS.SRI.R.BINDU (SASTHAMANGALAM)
SRI.PRASANTH M.P

RESPONDENT(S)/STATE :

1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, PIN-682 031.
2. THE DEPUTY REGISTRAR OF CHITS,
KOZHIKODE, PIN-673 001.

* ADDITIONAL R3 TO R10 IMPEADED

3. LATHEESH.P,
PARAMBATH HOUSE, PUTHIYANGADI (P.O),
ELATHUR, KOZHIKODE.
4. ANTONY C.V,
CHIRIYAN KANDATH, JOSEPH ROAD (P.O),
KOZHIKODE.
5. JAYALATHA V.P,
VELLATHUMPADATH HOUSE, GOVINDAPURAM (P.O),
KOZHIKODE, PIN- 673 016.

Crl.MC.No. 5383 of 2014

6. **SIBIN KUMAR,**
BEENA VIHAR, PUTHIYANGADI (P.O), ELATHUR,
KOZHIKODE.
7. **RADHA,**
C.M.C.COLONY, STADIUM, PUTHIYARA (P.O),
KOZHIKODE.
8. **NIRMAL.A, S/O.JAYADEV,**
ALAMPATTA HOUSE, CHALIVAYAL, HOUSE NO.24/38,
NADAKKAVU (P.O), KOZHIKODE, PIN- 673 011.
9. **SABEESH KUMAR, S/O.RAMACHANDRAN NAIR,**
AIWARYA HOUSE, VELLIPARAMVA (P.O), KOZHIKODE.
10. **AMITH.A,**
ANAPPARA HOUSE, EAST HILL, WEST HILL (P.O),
KOZHIKODE, PIN- 673 005.

*** ADDITIONAL R3 TO R10 ARE IMPEADED AS PER ORDER DATED 06.07.2015
IN CRL.M.A.NO.6291 OF 2015.**

R1 & R2 BY PUBLIC PROSECUTOR SRI.N.SURESH
ADDL. R3 TO R10 BY ADV. SRI.G.RAJAGOPAL (KUMMANAM)

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 06-07-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' ANNEXURES :

- ANNEXURE I:** TRUE COPY OF ORDER ISSUED BY THE 2ND RESPONDENT DATED 31-08-2013.
- ANNEXURE II:** CERTIFIED COPY OF THE FIRST INFORMATION REPORT DATED 28-11-2012 ALONG WITH THE LETTER OF THE SUPERINTENDENT OF POLICE, CBCID, EOWIII, KOZHIKODE.
- ANNEXURE III:** CERTIFIED COPY OF THE FINAL REPORT DATED 13-12-2013.
- ANNEXURE IV:** TRUE COPY OF THE MEMORANDUM OF EVIDENCE.
- ANNEXURE V:** AFFIDAVIT DATED 23.09.2014 SWORN BY THE 3RD RESPONDENT.
- ANNEXURE VI:** AFFIDAVIT DATED 23.09.2014 SWORN BY THE 4TH RESPONDENT.
- ANNEXURE VII:** AFFIDAVIT DATED 23.09.2014 SWORN BY THE 5TH RESPONDENT.
- ANNEXURE VIII:** AFFIDAVIT DATED 23.09.2014 SWORN BY THE 6TH RESPONDENT.
- ANNEXURE IX:** AFFIDAVIT DATED 23.09.2014 SWORN BY THE 7TH RESPONDENT.
- ANNEXURE X:** AFFIDAVIT DATED 23.09.2014 SWORN BY THE 8TH RESPONDENT.
- ANNEXURE XI:** AFFIDAVIT DATED 23.09.2014 SWORN BY THE 9TH RESPONDENT.
- ANNEXURE XII:** AFFIDAVIT DATED 23.09.2014 SWORN BY THE 10TH RESPONDENT.

RESPONDENT(S)' ANNEXURES :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

ALEXANDER THOMAS, J.
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Crl.M.C No.5383 of 2014
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Dated this the 6th day of July, 2015
O R D E R

The petitioners seek orders quashing the F.I.R and further proceedings in Crime No.808 of 2012 of Kozhikode Kasaba Police Station, registered under Sections 4, 5, 8, 9, 19 and 20 of the Chits Funds Act, 1982 and under Section 420 IPC. Orders are sought on the ground of amicable settlement of the whole dispute between the accused and the de facto complainant out of court. The Additional respondent Nos. 3 to 10 have filed affidavit to the effect that they have settled the whole dispute with the accused and they have no objection for quashment of the impugned criminal proceedings pending against the petitioners.

2. In a catena of decisions, the Apex Court has held that in appropriate cases involving even non-compoundable offences, the High Court can quash prosecution by exercise of the powers under Sec.482 of the Cr.P.C., if the parties have really settled the whole dispute or if continuance of prosecution will not serve any purpose. Here, this Court finds a real case of settlement between the parties and it is also found that continuance of prosecution in such a

situation will not serve any purpose other than wasting the precious time of the court, when the case ultimately comes before the court. On a perusal of the petition and on a close scrutiny of the investigation materials on record and the affidavit of settlement and taking into account the attendant facts and circumstances of this case, this Court is of the considered opinion that the legal principles laid down by the Apex Court in the cases as in *Gian Singh v. State of Punjab* reported in 2013 (1) SCC (Cri) 160 = (2012) 10 SCC 303 and *Narinder Singh and others v. State of Punjab and anr.* reported in (2014) 6 SCC 466, more particularly paragraph 29 thereof, could be applied in this case to consider the prayer for quashment.

Accordingly, the impugned F.I.R and further proceedings arising out of Crime No.808 of 2012 of Kozhikode Kasaba Police Station, including all further proceedings arising out of C.C.No.117/2014 on the files of the Judicial First Class Magistrate Court-III, Kozhikode pending against the petitioners herein will stand quashed under Section 482 of the Code of Criminal Procedure.

With these observations and directions this Crl.M.C. stands finally disposed of.

sd/-

sab

ALEXANDER THOMAS, JUDGE

