

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 3RD DAY OF NOVEMBER 2015/12TH KARTHIKA, 1937

Crl.MC.No. 6631 of 2015 (F)

**AGAINST THE ORDER IN Bail Appl. No.5343/2013 OF HIGH COURT OF KERALA DATED
13.08.2013**

CRIME NO. 954/2011 OF KASARAGOD POLICE STATION, KASARAGOD

PETITIONER(S)/ACCUSED NOS.1 TO 10 :-

- 1. ABDUL KHADER ANEES @ ANEES, AGED 23 YEARS,
S/O.HABEEB, THAHIR HOUSE, MEEPUGIRI,
NEAR SK TRADERS, KUDLU VILLAGE,
KASARAGOD TALUK AND DISTRICT.**
- 2. MOHAMMED SAKEER @ SAKEER,
AGED 24 YEARS, S/O.BADURUDHEEN (LATE),
BADURUDHEEN MANZIL, MEEPUGIRI,
BACK OF KCM CHANNEL OFFICE, KUDLU VILLAGE,
KASARAGOD TALUK AND DISTRICT.**
- 3. ABDUL ASEES N.M. @ ASEES,
AGED 26 YEARS, S/O.MUHAMMED, KALIYANGAD,
NEAR HYDROSE PALLI, KUDLU VILLAGE,
KASARAGOD TALUK AND DISTRICT.**
- 4. MOHAMMED NOUFAL N.R., AGED 25 YEARS,
S/O.ABDUL RAHIMAN, ALLMENS QUARTERS,
PARAKKATTA ROAD, MEEPUGIRI, KUDLU VILLAGE,
KASARAGOD TALUK AND DISTRICT.**
- 5. ABDUL HADIK C.M., AGED 22 YEARS, S/O.MUHAMMAD,
THAIVALAPPU HOUSE, NEAR HYDROSE JUMA MASJID,
CHOORI, KUDLU VILLAGE, KASARAGOD TALUK AND DISTRICT.**
- 6. DANISH C.N., AGED 26 YEARS, S/O.ABDUL NASAR,
SHEMEEL HOUSE, MEEPUGIRI, KUDLU VILLAGE,
KASARAGOD TALUK AND DISTRICT.**

Contd.....2

-2-

7. ADIL C.M. @ DILLU, AGED 22 YEARS, S/O.MEHAMOOD, PALLAM HOUSE, PULIKKOOR, SHIRIBAGILLU VILLAGE, KASARAGOD TALUK AND DISTRICT.
8. RAHMAN @ FAZAL RAHMAN @ PALLU, AGED 30 YEARS, S/O.SULAIMAN HAJI, SALIMANZIL, R.D.NAGAR, CHOORI, KUDLU VILLAGE, KASARAGOD TALUK AND DISTRICT.
9. MUNEEER C.S., AGED 35 YEARS, S/O.SULAIMAN HAJI, SALIMANZIL, R.D.NAGAR, CHOORI, KUDLU VILLAGE, KASARAGOD TALUK AND DISTRICT.
10. ATHEES IBRAHIM, AGED 24 YEARS, S/O.IBRAHIM, HANU HOUSE, NEAR CHOORI IMAMASJID, CHOORI, KUDLU VILLAGE, KASARAGOD TALUK AND DISTRICT.

BY ADV. SRI.K.P.HARISH

RESPONDENT(S)/LEGAL HEIRS OF DEFACTO COMPLAINANT, WITNESS & STATE :-

1. DINESHA K., AGED 35 YEARS, S/O.RAMA MANIYANI S.K., RESIDING AT RADHA NILAYAM, MEEPUGIRI, R.D.NAGAR, KUDLU VILLAGE, KASARAGOD TALUK AND DISTRICT, PIN - 671 124.
2. SUJATHA M.K., AGED 34 YEARS, W/O.LATE SURESH K., RESIDING AT RADHA NILAYAM, MEEPUGIRI, R.D.NAGAR, KUDLU VILLAGE, KASARAGOD TALUK AND DISTRICT - 671 124.
3. STATE OF KERALA - THROUGH STATION HOUSE OFFICER, CRIME NO.954 OF 2011 OF KASARAGOD POLICE STATION, KASARAGOD DISTRICT, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM - 682 031.

R1 BY ADV. SRI.M.T.SURESHKUMAR

R3 BY SMT.SHEEBA M.T., PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 03-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

rkj

APPENDIX

PETITIONER(S)' ANNEXURES :-

- ANNEXURE A1 - TRUE COPY OF THE FIR AND FI STATEMENT DATED 14.10.2011 IN CRIME NO.954 OF 2011 OF KASARAGOD POLICE STATION.**
- ANNEXURE A2 - A TRUE COPY OF THE ORDER DATED 29.01.2013 IN BAIL APPLICATION NO.498/2013 OF THIS HON'BLE COURT.**
- ANNEXURE A2(a) - A TRUE COPY OF THE ORDER DATED 13.08.2013 IN BAIL APPLICATION NO.5343 OF 2013 OF THIS HON'BLE COURT.**
- ANNEXURE A3 - THE TRUE COPY OF THE DEATH CERTIFICATE DATED 27.09.2014 OF THE DEFACTO COMPLAINANT/RADHA.**
- ANNEXURE A3(a) - THE TRUE COPY OF THE DEATH CERTIFICATE DATED 08.09.2015 OF THE SON OF THE DEFACTO COMPLAINANT SURESH K.**
- ANNEXURE A4 - THE TRUE COPY OF THE IDENTITY CARD OF THE RESPONDENT NO.1.**
- ANNEXURE A4(a) - THE TRUE COPY OF THE IDENTITY CARD OF THE RESPONDENT NO.2.**
- ANNEXURE A5 - A TRUE COPY OF THE AFFIDAVIT DATED 21.09.2015 SIGNED BEFORE AN ADVOCATE NOTARY BY THE RESPONDENT NO.1.**
- ANNEXURE A5(a) - A TRUE COPY OF THE AFFIDAVIT DATED 21.09.2015 SIGNED BEFORE AN ADVOCATE NOTARY BY THE RESPONDENT NO.2.**

RESPONDENT(S)' ANNEXURES :- NIL

//TRUE COPY//

P.A. TO JUDGE

P.UBAID, J.

=====

Crl.M.C.No.6631 of 2015

=====

Dated this the 3rd day of November, 2015

ORDER

The petitioners herein are the ten accused in Crime No.954 of 2011 of Kasaragod Police Station, registered under Sections 143, 147, 148, 447, 427, 324 and 153A read with Section 149 IPC. The said crime was registered on the complaint of one Radha. The petitioners seek orders quashing the FIR and further proceedings in the said crime on the ground of amicable settlement of the whole dispute between them and the son of the deceased complaint. This application is opposed by the police on the ground that this crime was registered as one in the series of crimes in connection with different incidents of communal violence at the locality, and that if the crime is quashed, it will have social consequences. The Sub Inspector of Police, Kasaragod has filed statement of objection containing the details of so many crimes where some of the petitioners are involved. The statement shows that the first petitioner herein is

involved in nine other crimes, and also another crime registered under Section 107 Cr.P.C. There is report that the police has already initiated a rowdy history sheet as regards him. As regards the 4th accused, the police report is that he is involved in Crime No.149 of 2012 registered under Sections 153A and 302 IPC besides other sections. The 7th accused is involved in two crimes besides the present crime. So also 10th accused is involved in two other crimes. Both the crimes involve the offence under Section 153A IPC.

2. On a perusal of the police report, I find that some of the petitioners are involved in many other crimes, and some such crimes involve the offence under Section 153A IPC, and even the offence under Section 302 IPC. It is not in dispute that the present crime was registered by the police as one in the series in connection with a communal violence. There is report that many other crimes in the series are still pending. In some cases the police has already submitted final report, and in some investigation is still going on. In such a situation, it would be inappropriate and illegal to quash the prosecution under Section 482 Cr.P.C. Investigation will have to proceed. If a final report ultimately comes on some findings against the accused, they will have to face trial. It would be inappropriate to quash the

prosecution as against some of the accused, who are not involved in other crimes. Such a course, if pursued, will definitely affect the prosecution against the others. I find that the request made by the petitioners cannot be allowed.

In the result, this Crl.M.C. is dismissed.

Sd/-
P.UBAID
JUDGE

rkj

//TRUE COPY//

P.A. TO JUDGE