

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 12TH DAY OF JANUARY 2015/22ND POUSHA, 1936

Crl.MC.No. 5460 of 2014 ()

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CC 1903/2009 of JUDICIAL FIRST CLASS MAGISTRATE COURT-II, KOLLAM
CRIME NO. 76/2009 OF ERAVIPURAM POLICE STATION , KOLLAM DISTRICT
=====**

PETITIONERS/ACCUSED NOS.1 AND 2:

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- 1. CLETUS @ MONICHAN, AGED 49 YEARS
S/O.ANTONY, KADAPPURAM PURAMBOKE VEEDU
THEKKUMBHAGAM CHERI, ERAVIPURAM VILLAGE
KOLLAM DISTRICT.**
 - 2. CLINTU, AGED 23 YEARS
S/O.CLETUS, KADAPPURAM VEEDU, THEKKUMBHAGAM CHERI
ERAVIPURAM VILLAGE.**

BY ADV. SRI.GEORGE SEBASTIAN

RESPONDENTS/DEFACTO COMPLAINANT AND STATE:

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- 1. MICHAEL, AGED 36 YEARS
S/O.RAJU, BETHLEHEM VILLA, VADAKKUMBHAGAM CHERI
ERAVIPURAM VILLAGE, KOLLAM DISTRICT-691001.**
 - 2. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.**

**R1 BY ADV. SRI.M.AJITH (KARICODE)
R2 BY PUBLIC PROSECUTOR SMT. S. HYMA**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12-01-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONERS' EXHIBITS

**ANNEXURE A- A TRUE COPY OF THE FIR IN CRIME NO.76/2009 OF ERAVIPURAM
POLICE STATION.**

**ANNEXURE B- A TRUE COPY OF THE FINAL REPORT IN CRIME NO.76/2009 OF
ERAVIPURAM POLICE STATION NOW PENDING AS C.C.NO.1903/2009
OF JFCM COURT-II, KOLLAM.**

**ANNEXURE C- ORIGINAL NOTARIZED AFFIDAVIT DATED 2.9.2014 SWORN TO BY THE
1ST RESPONDENT.**

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY // P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.5460 of 2014

Dated this the 12th day of January, 2015

O R D E R

The petitioners herein are the two accused in C.C.No.1903/2009 of the Judicial First Class Magistrate Court-II, Kollam. The 1st respondent herein is the defacto complainant in the said crime, on whose complaint the police registered the crime under Sections 143, 147, 148, 427, 323 and Section 149 IPC, and Section 27 of the Arms Act. The petitioners now seek orders quashing the prosecution, on the ground that they and the defacto complainant have come to terms amicably out of court. The complaint was in fact made against two named persons, and some other identifiable persons. In spite of efforts made during investigation, the police could not identify and detect those persons, and so submitted final report against these two accused. The defacto complainant has filed affidavit before this Court that the whole dispute between him and the accused stands resolved forever, and that he has no grievance or complaint now. Though there is an allegation under the Arms Act, the

sustainability of such prosecution is really doubtful. Any way, the parties have come to terms amicably, and the defacto complainant now does not want to continue the prosecution. I am well satisfied that there is a real and genuine settlement between the parties, and in such a situation, continuance of prosecution will not serve any purpose, other than wasting the precious time of the court. Nobody will support the prosecution, if the case goes to trial.

In the result, this Crl.M.C. is allowed. The prosecution against the petitioners in C.C.No.1903/2009 of the Judicial First Class Magistrate Court-II, Kollam will stand quashed under Section 482 Cr.P.C. Accordingly, the petitioners will stand released from prosecution. The bail bond, if any, executed by them will stand discharged.

Sd/-

P. UBAID, JUDGE

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