

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 13TH DAY OF OCTOBER 2015/21ST ASWINA, 1937

Crl.MC.No. 6668 of 2015

CP NO.72/2015 OF JUDICIAL FIRST CLASS MAGISTRATE COURT - II,
NEYATTINKARA

CRIME NO. 208/2015 OF POOVAR POLICE STATION, THIRUVANANTHAPURAM

PETITIONERS/ACCUSED NOS.1 TO 3 :-

1. SANTHOSH, S/O.SATHYASEELAN, AGED 30 YEARS,
KANJIRAMNINNA VEEDU, VALIYAVILA,
TIRUPURAM, THIRUVANANTHAPURAM.
2. SANAL KUMAR, S/O.SATHYASEELAN, AGED 22 YEARS,
KANJIRAMNINNA VEEDU, VALIYAVILA,
TIRUPURAM, THIRUVANANTHAPURAM.
3. MANIKUTTAN @ SUJIN, S/O.SUKUMARAN, AGED 24 YEARS
VALIYAVILA VEEDU, TIRUPURAM, THIRUVANANTHAPURAM.

BY ADV. SRI.S.MOHAMMED AL RAFI

RESPONDENT/COMPLAINANTS AND STATE :-

1. VIVEK, S/O.SASI, AGED 23 YEARS,
S.R.BHAVAN, VALIYAVILA HARIJAN COLONY,
TIRUPURAM P.O, NEYATTINKARA,
THIRUVANANTHAPURAM - 695 133.
2. SASI, S/O.THOMPSON, AGED 53 YEARS,
S.R.BHAVAN, VALIYAVILA HARIJAN COLONY,
TIRUPURAM P.O, NEYATTINKARA,
THIRUVANANTHAPURAM - 695 133.
3. SINDHU, W/O.SUDHEER, AGED 35 YEARS,
S.R.BHAVAN, VALIYAVILA HARIJAN COLONY,
TIRUPURAM P.O, NEYATTINKARA,
THIRUVANANTHAPURAM - 695 133.
4. SUDHEER, S/O.BALMONI, AGED 40 YEARS,
VALIYAVILA HARIJAN COLONY,
TIRUPURAM P.O, NEYATTINKARA,
THIRUVANANTHAPURAM - 695 133.
5. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

R1-R4 BY ADV. SRI.ANIL K.MOHAMMED
R5 BY SRI. JUSTIN JACOB, PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 13-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

APPENDIX

PETITIONER(S)' ANNEXURES :-

**ANNEXURE A : CERTIFIED COPY OF FINAL REPORT IN CRIME NO.208/15
OF POOVAR POLICE STATION.**

ANNEXURE B : NOTARISED AFFIDAVIT SWORN BY THE 1ST RESPONDENT.

ANNEXURE C : NOTARISED AFFIDAVIT SWORN BY THE 2ND RESPONDENT.

ANNEXURE D : NOTARISED AFFIDAVIT SWORN BY THE 3RD RESPONDENT.

ANNEXURE E : NOTARISED AFFIDAVIT SWORN BY THE 4TH RESPONDENT.

RESPONDENT(S)' ANNEXURES :- NIL

//TRUE COPY//

P.A. TO JUDGE

rkj

P.UBAID, J.

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Crl.M.C.No.6668 of 2015
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Dated this the 13th day of October, 2015

ORDER

The petitioners herein are the three accused in C.P.No.72 of 2015 of the Judicial First Class Magistrate Court-II, Neyyattinkara. 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 294b, 323, 324, 354 and 308 read with Section 34 of the Indian Penal Code on the complaint of one Vivek, who is the 1st 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. The other persons who sustained injuries in the alleged incident are the respondents 2 to 4 in this proceeding. They have also filed affidavit to the effect

that they have settled the whole dispute with the accused, and they have no grievance or complaint now.

2. 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 further proceedings 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.

3. On a perusal of the materials, I find that this is in fact a simple case of assault which will not amount to outrage of modesty of woman Section 354 IPC, and that Section 308 IPC was incorporated in the proceeding by the police on the

basis of the some hypothetical statement. Anyway, the parties have come to terms, and now they are on quite cordial relationship.

In the result, this petition is allowed. The prosecution against the petitioners herein in C.P.No.72 of 2015 of the Judicial First Class Magistrate Court-II, Neyyattinkara 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**

rkj

//TRUE COPY//

P.A. TO JUDGE