

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 15TH DAY OF OCTOBER 2015/23RD ASWINA, 1937

Cr1.MC.No. 6674 of 2015

IN CP 20/2015 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT -II,
KANNUR

CRIME NO. 686/2014 OF IRIKKUR POLICE STATION, KANNUR

PETITIONERS/ACCUSED:

1. AHAMMADKUTTY MUSALIYAR P.P, AGED 45 YEARS,
S/O.KHADER, PALAKKAL PUTHIYA PURAYIL HOUSE, BLATHOOR,
KALLIAD AMSOM, IRITTY TALUK, KANNUR DISTRICT.
2. ANSAR K. AGED 25 YEARS,
S/O.MUHAMMED ALI P.C., KUNNUPURATH HOUSE,
KALLIAD AMSOM, BLATHUR, IRITTY TALUK,
KANNUR DISTRICT.
3. SHARAFUDHEEN C.H, AGED 32 YEARS,
S/O.MOIDEENKUTTY, SEENATH MANIL, BLATHOOR,
KALLIAD AMSOM, IRITTY TALUK, KANNUR DISTRICT.
4. HARIS P, AGED 22 YEARS,
S/O.ABDU P.P., BLATHOOR, KALLIAD AMSOM,
IRITTY TALUK, KANNUR DISTRICT.
5. SHIHABUDDIN V.V, AGED 23 YEARS,
S/O.UMMER, VALAPPIL HOUSE, KALLIAD AMSOM,
IRITTY TALUK, KANNUR DISTRICT.

BY ADV. SRI.S.UNNIKRISHNAN (VARKALA)

RESPONDENTS/STATE & DEFACTO COMPLAINANT:

1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, PIN-682 031.
2. SAJJAD K.A, AGED 23 YEARS,
S/O.MUHAMMED P.P., KUNNUPURATH EKARATHE PURAYIL HOUSE,
BLATHUR, KALLIAD, IRITTY TALUK,
KANNUR DISTRICT-670 593.
3. SAIBUNNISSA K.A, AGED 46 YEARS,
W/O.MUHAMMED P.P., KUNNUPURATH EKARATHE PURAYIL HOUSE,
BLATHUR, KALLIAD, IRITTY TALUK,
KANNUR DISTRICT-670 593.

R2 & 3 BY ADV. SRI.MAHESH V RAMAKRISHNAN
R1 BY PUBLIC PROSECUTOR SRI.JUSTIN JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 15-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 6674 of 2015

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE-A1. CERTIFIED COPY OF THE FIRST INFORMATION REPORT DATED 14/11/2014 IN CRIME NO.686/2014 OF THE IRIKKUR POLICE STATION.

ANNEXURE-A2. CERTIFIED COPY OF THE CHARGE SHEET DATED NIL IN CP NO.20/2015.

ANNEXURE-A3. AFFIDAVIT DATED 25/9/2015 SWORN TO BY THE RESPONDENT NO.2 ATTESTED BY AN ADVOCATE.

ANNEXURE-A4. AFFIDAVIT DATED 25/9/2015 SWORN TO BY THE RESPONDENT NO.3 ATTESTED BY AN ADVOCATE.

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.6674 of 2015

Dated this the 15th day of October, 2015

O R D E R

The petitioners herein are the four accused in C.P No.20/2015 of the Judicial First Class Magistrate Court II, Kannur. 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, 452, 323, 324, 308 and 427 r/w 149 of the Indian Penal Code on the complaint of one Sajjad, 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 person who sustained injuries in the alleged incident is the 3rd respondent in this proceeding. She has also filed affidavit to the effect that she has settled the whole dispute with the accused, and she has 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 counter case also stands settled and quashed. On a perusal of the materials, I find that this is a simple case of trespass and mischief. I am satisfied that Section 308 IPC was incorporated by the police in the FIR and final report on the basis of some hypothetical statement. Anyway, the dispute now stands settled. 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.P No.20/2015 of the Judicial First Class Magistrate Court II, Kannur 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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