

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. 6741 of 2015

IN CC 202/2012 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT,
PONNANI
CRIME NO. 353/2009 OF CHANGARAMKULAM POLICE STATION,
MALAPPURAM

PETITIONERS/ACCUSED:

1. SHOUKATH ALI, AGED 30 YEARS,
S/O.SAID, PULINKUNNATH HOUSE, POST PIDAVANOR,
NARANIPUZHA, PONNANI TALUK, MALAPPURAM DISTRICT.
2. SAID, AGED 58 YEARS,
S/O.UNNI, PULINKUNNATH HOUSE, POST PIDAVANOR,
NARANIPUZHA, PONNANI TALUK, MALAPPURAM DISTRICT.
3. IBRAHIM, AGED 49 YEARS,
S/O.KUNHIMOHAMMED, PULINKUNNATH HOUSE, POST PIDAVANOR
NARANIPUZHA, PONNANI TALUK, MALAPPURAM DISTRICT.
4. MOHAMMED @ KUNHIPPA, AGED 51 YEARS,
S/O.SAID, PULINKUNNATH HOUSE, POST PIDAVANOR
NARANIPUZHA, PONNANI TALUK, MALAPPURAM DISTRICT.
5. MOIDUNNI, AGED 51 YEARS,
S/O.ALI @ BAPPUTTY, PULINKUNNATH HOUSE,
POST PIDAVANOR, NARANIPUZHA, PONNANI TALUK
MALAPPURAM DISTRICT.
6. SIDHIQUE, AGED 38 YEARS,
S/O.MYMU, PALLIYIL HOUSE, POST PIDAVANOR,
NARANIPUZHA, PONNANI TALUK, MALAPPURAM DISTRICT.
7. NASER, AGED 32 YEARS,
S/O.AGU, THACHOTHAYIL HOUSE, POST PIDAVANOR,
NARANIPUZHA, PONNANI TALUK, MALAPPURAM DISTRICT.
8. SAID HASSAN, AGED 62 YEARS,
S/O.HASSAINAR @ KUNHIPPA, PALLIYIL HOUSE,
POST PIDAVANOR, NARANIPUZHA, PONNANI TALUK
MALAPPURAM DISTRICT.

BY ADV. SRI.C.M.MOHAMMED IQUABAL

RESPONDENTS/STATE &COMPLAINANT:

1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM 682 031.
2. MADATHI IBRAHIM, AGED 52 YEARS,
S/O.BAPPU HAJI, MADATHIL HOUSE,
NEAR ATHANI BUS STOP,
NANNAMUKKU AMSOM, NARANIPUZHA DESOM,
POST PIDAVANNUR,
PONNANI TALUK, MALAPPURAM DISTRICT.
3. SHAHARABI, AGED 47 YEARS,
W/O.IBRAHIM, MADATHIL HOUSE, NEAR ATHANI BUS STOP,
NANNAMUKKU AMSOM, NARANIPUZHA DESOM,
POST PIDAVANNUR,
PONNANI TALUK, MALAPPURAM DISTRICT - 677 016.
4. HAJARA, AGED 51 YEARS,
W/O.MOHAMMEDUNNI, MADATHIL HOUSE,
NEAR ATHANI BUS STOP,
NANNAMUKKU AMSOM, NARANIPUZHA DESOM,
POST PIDAVANNUR
PONNANI TALUK, MALAPPURAM DISTRICT-677016.

R1 BY ADV. SMT.BHAVANA VELAYUDHAN
R1 BY PUBLIC PROSECUTOR SMT.SHEEBA M.T

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. 6741 of 2015

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE A1. COPY OF THE FINAL REPORT IN CRIME NO. 353/2009
DATED 24.1.10.

ANNEXURE A2. COPY OF THE MEMORANDUM OF EVIDENCE IN CRIME
NO.353/09 DATED 24.1.10.

ANNEXURE A3. COPY OF THE AFFIDAVIT OF RESPONDENTS 2 TO 4,
DATED 18.9.2015.

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.6741 of 2015

Dated this the 15th day of October, 2015

O R D E R

The petitioners herein are the eight accused in C.C No.202/2012 of the Judicial First Class Magistrate Court, Ponnani. 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, 341, 323, 324 and 354 r/w 149 of the Indian Penal Code on the complaint of one Ibrahim, who is the second respondent in this proceeding brought under Section 482 of the Code of Criminal Procedure.

2. The other victims of offence are the respondent Nos.3 and 4 in this proceeding. The defacto complainant and the other victims of offence have filed a joint affidavit to the effect that they have settled the whole dispute with the accused, and that they have no grievance or complaint now. On a perusal of the materials, I find that this is only a case of simple assault, and there is nothing to attract Section 354 of the Indian Penal Code. Anyway, the parties, who are close neighbours, have settled the whole dispute.

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 further 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 parties have come to terms amicably on the intervention of persons acceptable to both sides. 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.C No.202/2012 of the Judicial First Class Magistrate Court, Ponnani 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

//True Copy//

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P.A to Judge