

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 3RD DAY OF FEBRUARY 2015/14TH MAGHA, 1936

Crl.MC.No. 5645 of 2014 ()

**IN CC 640/2011 of JUDICIAL FIRST CLASS MAGISTRATE COURT-I,KOCHI
CRIME NO. 1595/2009 OF NJARAKKAL POLICE STATION , ERNAKULAM**

PETITIONER(S)/IST ACCUSED:

**SEBASTIAN MANKUZHI AGED 42 YEARS
S/O.RAPHAEL, MANKUZHAY HOUSE, NEDUMPADY SOUTH
NAYARAMBALAM P.O., ERNAKULAM.**

**BY ADVS.SRI.PHILIP T.VARGHESE
SRI.THOMAS T.VARGHESE
SMT.ACHU SHUBHA ABRAHAM
SMT.VIDHYA KISHAN
SRI.BOBY C. BABY
SRI.ANOOP BHASKAR**

RESPONDENT(S)/STATE AND DEFACTO COMPLAINANT:

**1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA
ERNAKULAM REPRESENTING THE SUB INSPECTOR OF POLICE
NJARAKKAL POLICE STATION.**

**2. M.M.JAHANGIR, AGED 34 YEARS
S/O.MOHAMMED SADIQ, MALAVILAPOIKA PUTHEN VEEDU
OCHANATHURUTH P.O., ERNAKULAM - 682 508.**

**R2 BY ADV. SRI.M.F.MOHAMMAD SIYAD
R2 BY ADV. SMT.K.R.MONISHA
R1 BY PUBLIC PROSECUTOR SMT. P. MAYA**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 03-02-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

CrI.MC.No. 5645 of 2014 ()

APPENDIX

PETITIONER(S)' EXHIBITS

**ANNEXURE-A1: TRUE COPY OF THE F.I.R AND STATEMENT OF DEFACTO
COMPLAINANT IN CRIME NO.1595/09 OF NJARAKKAL POLICE STATION.**

**ANNEXURE-A2: TRUE COPY OF THE FINAL REPORT IN C.C.NO.640/2011 OF THE
JUDICIAL FIRST CLASS MAGISTRATE COURT NO.I, KOCHI.**

**ANNEXURE-A3: TRUE COPY OF THE AFFIDAVIT SUBMITTED BY THE 2ND
RESPONDENT DATED 14.8.2014**

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

PA TO JUDGE
sab

P.UBAID, J.

Crl. M.C No. 5645 of 2014

Dated this the 3rd day of February, 2015.

O R D E R

The petitioner herein is the original first accused in C.C No. 640/2011 of the Judicial First Class Magistrate Court-I, Kochi. The second accused faced trial, and obtained a judgment of acquittal in the said case. The case against the petitioner herein was split up and refiled as C.C 1694/2014. He seeks orders quashing the prosecution on the ground of amicable settlement of the whole dispute between him and the de facto complainant. Crime in this case was registered under Sections 323, 294(b) and 34 of IPC, on the complaint of one M.M Jahangir who is the second 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. 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 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. 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 petitioner herein in C.C 1694/2014 of the Judicial First Class Magistrate's Court-I, Kochi will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioner will stand released from prosecution and the bail bond, if any, executed by him will stand discharged.

P.UBAID,
JUDGE