

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 16TH DAY OF NOVEMBER 2015/25TH KARTHIKA, 1937

Crl.MC.No. 6991 of 2015 (G)

CC NO.1077/2015 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, CHAVARA

CRIME NO.980/2011 OF THEKKUMBHAGOM POLICE STATION, KOLLAM

PETITIONER(S)/ACCUSED :-

1. CLEMENT, AGED 28 YEARS,
S/O.YESUDAS, PLACHERY VADAKKATHIL HOUSE,
ARINALLOOR.P.O., THEVALAKKARA VILLAGE,
KOLLAM DISTRICT.
2. SMINURAJ, AGED 28 YEARS,
S/O.RAJAN, MUTTATHUPUTHEN HOUSE, ARINALLOOR.P.O.,
THEVALAKKARA VILLEG, KOLLAM DISTRICT.
3. JOSE, AGED 38 YEARS,
S/O.STEPHEN, JOSE VILASAM, ARINALLOOR.P.O.,
THEVALAKKARA VILLEG, KOLLAM DISTRICT.
4. JOSE, AGED 34 YEARS,
S/O.RICHARD, MUTTATHU THEKKATHIL HOUSE,
MANDRO THURUTH VILLEG, KOLLAM DISTRICT.
5. NOYAL, AGED 41 YEARS,
S/O.STEPHEN, MUTTATHU THEKKATHIL HOUSE,
MANDRO THURUTH VILLEG, KOLLAM DISTRICT.
6. ZIRIL, AGED 39 YEARS,
S/O.EDWERD, SAYANORA BHAVANAM, ARINALLOOR.P.O.,
THEVALAKKARA VILLAGE, KOLLAM DISTRICT.

**BY ADVS.SRI.K.S.ARUN KUMAR
SMT.RESMI THOMAS**

Contd....2

-:2:-

RESPONDENT(S)/STATE & DEFACTO COMPLAINANT :-

- 1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. ALPHONSA, AGED 57 YEARS,
W/O.ANTONY, MANNAREZHATHU THEKKATHIL,
ARINALLOOR P.O., THEVALAKKARA VILLEGGE,
KOLLAM DISTRICT, PIN-690 538.**
- 3. ANTONY, AGED 67 YEARS,
S/O.ALEXANDER, MANNAREZHATHU THEKKATHIL,
ARINALLOOR P.O., THEVALAKKARA VILLEGGE,
KOLLAM DISTRICT, PIN-690 538.**

R2 & R3 BY ADV. SRI.P.A.VIBIN

R1 BY SMT.SHEEBA M.T., PUBLIC PROSECUTOR

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 16-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

rkj

Crl.MC.No. 6991 of 2015 (G)

APPENDIX

PETITIONER(S)' ANNEXURES :-

**ANNEXURE I- TRUE COPY OF THE CHARGE SHEET IN CRIME NO.980/2011 OF
THEKKUMBHAGOM POLICE STATION.**

ANNEXURE II- TRUE COPY OF THE AFFIDAVIT SWORN BY THE 2ND RESPONDENT.

ANNEXURE III- TRUE COPY OF THE AFFIDAVIT SWORN BY THE 3RD RESPONDENT.

RESPONDENT(S)' ANNEXURES :- NIL

//TRUE COPY//

P.A. TO JUDGE

rkj

P.UBAID, J.

=====
Crl.M.C.No.6991 of 2015
=====

Dated this the 16th day of November, 2015

ORDER

The petitioners herein are the six accused in C.C.No.1077 of 2015 of the Judicial First Class Magistrate Court, Chavara. 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, 354 and 427 read with Section 149 of the Indian Penal Code on the complaint of one Alphonsa, who is the 2nd respondent in this proceeding brought under Section 482 of the Code of Criminal Procedure. She has filed affidavit to the effect that she has settled the whole dispute with the accused, and she has no grievance or complaint now. One of the other victims of offence is the third respondent. He has also filed affidavit to the effect that he has settled the whole

dispute out of court amicably. The third victim of offence cited as CW5 by the prosecution died pending proceedings. The petitioners have produced copy of the death certificate showing the death of the said victim of offence. I am well satisfied that the whole dispute now stands resolved forever, and no issue remains to be settled.

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.

In the result, this petition is allowed. The prosecution against the petitioners herein in C.C.No.1077 of 2015 of the Judicial First Class Magistrate Court, Chavara 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