

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.7037 of 2015

**C.P.No.3/2015 OF THE JUDICIAL 1ST CLASS MAGISTRATE COURT, MUVATTUPUZHA
CRIME NO.2130/2014 OF MOOVATTUPUZHA POLICE STATION , ERNAKULAM**

PETITIONER(S)/A1 & A2:

- 1. MEERAN MOULAVI, AGED 61 YEARS,
S/O. KUNJUPILLA, KAVALAYIL KAKKADU VEEDU, KOTTAPPURAM,
RANDARKKARA, MOOVATTUPUZHA VILLAGE,
ERNAKULAM DISTRICT.**
- 2. THAJUDHEEN, AGE 60,
S/O. SULAIMAN, MALIYEKKAL VEEDU, VANAPPURAM KARA,
VANAPPURAM VILLAGE, MOOVATTUPUZHA, ERNAKULAM DISTRICT.**

BY ADV. SRI.SHAJIN S.HAMEED

RESPONDENT(S)/STATE & DE FACTO COMPLAINANT:

- 1. STATE OF KERALA,
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
MOOVATTUPUZHA POLICE STATION,
REPRESENTED THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.**
- 2. ALTHAF, AGE 8, (MINOR),
S/O. ANISHAD, KUNNUPURATHU VEEDU,
PALLICHIRANGARA BHAGAM, THRIKKULATHOOR KARA,
MULALLOOR VILLAGE, MOOVATTUPUZHA, ERNAKULAM DISTRICT - 686 673,
REPRESENTED BY HIS FATHER ANISHAD.**

R1 BY PUBLIC PROSECUTOR SMT. SHEEBA.M.T

R2 BY ADV. SRI. HRITHWIK

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 16-11-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE A: COPY OF THE FIR IN CRIME No.2130/2014 OF MOOVATTUPUZHA
POLICE STATION.

ANNEXURE B: COPY OF THE FINAL REPORT IN CRIME No.2130/14 OF
MOOVATTUPUZHA POLICE STATION.

ANNEXURE C: COPY OF THE AFFIDAVIT SWORN BY THE FATHER OF 2ND
RESPONDENT/DE FACTO COMPLAINANT REPRESENTING HIM.

RESPONDENT(S)' EXHIBITS - **NIL**

//TRUE COPY//

PA TO JUDGE

P. UBAID, J.

Crl.M.C. No. 7037 OF 2015

Dated this the 16th day of November, 2015

ORDER

The petitioners herein are the accused in C.P.No.3/2015 of the Judicial First Class Magistrate Court, Muvattupuzha, involving the offence under Section 23 of Juvenile Justice (Care and Protection of Children) Act, 2000.

2. The petitioners seek orders quashing the prosecution on the ground of amicable settlement out of court. The victim in this case is a small boy aged 10 years. His father has filed affidavit that the whole dispute stands settled out of court amicably. The victim is an inmate of an orphanage at Muvattupuzha. The prosecution case is that on one or two occasions the child was physically assaulted by the teachers there.

3. As directed from the Court the parents appeared in Court along with the victim. On interacting

with the victim and his guardian I find that this is not in fact a case of mental or physical harassment of Juvenile under Section 23 of the Juvenile Act. I am well satisfied that the victim or his guardian had no complaint at all, at that somebody else, who has some axe to grind, caused a complaint in this case. The statement of the victim was also recorded. On a perusal of the said statement, I find that nothing had happened for a prosecution under Section 23 of the Juvenile Justice Act. This Court has settled that if teachers or the care takers of institutions like educational institutions beat an inmate as part of enforcement of discipline, it will not constitute a case of assault.

4. On interacting with the victim and the guardian I find that nobody has any grievance in this matter, and the guardian of the victim does not want a prosecution. What is revealed, is that an instance of enforcement of discipline in an institution, was taken advantage of by a

person having some enmity. I find that continuance of this prosecution will not serve any purpose when nobody has any grievance or complaint, and when the whole dispute stands settled. This matter does not involve any public interest. In so many decisions, the Hon'ble Supreme Court has held that in such matters where the parties have come to terms and there is no scope to proceed with the prosecution, the High Court can quash the prosecution under Section 482 of Cr.P.C.

In the result the petition is allowed. The prosecution against the petitioners herein in C.P.No.3/2015 of the Judicial First Class Magistrate Court, Muvattupuzha will stand quashed under Section 482 of Cr.P.C.

Sd/-
P. UBAID
JUDGE