

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 2ND DAY OF FEBRUARY 2015/13TH MAGHA, 1936

Crl.MC.No. 5907 of 2014 ()

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CC. NO.179/2014 AND LPR NO.116/2009 IN CC. NO.3/2009 OF JUDICIAL FIRST
CLASS MAGISTRATE COURT, VADAKKANCHERRY.
CRIME NO. 33/2007 OF ERUMAPETTY POLICE STATION.
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PETITIONERS/ACCUSED NO. 1 TO 5:

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- 1. M.F.VINCENT, AGED 61 YEARS,
S/O.M.T.FRANCIS, MURINGATHERI HOUSE,
PATHIYARAM DESOM, NELLUVAI VILLAGE, THRISSUR.**
 - 2. DEVIS, AGED 55 YEARS,
S/O.VINCENT @ FRANCIS, MURINGATHERI HOUSE,
PATHIYARAM DESOM, NELLUVAI VILLAGE, THRISSUR.**
 - 3. M.F.KURIAN, AGED 52 YEARS,
S/O.VINCENT @ FRANCIS, MURINGATHERI HOUSE,
PATHIYARAM DESOM, NELLUVAI VILLAGE, THRISSUR.**
 - 4. M.F.TOMY, AGED 49 YEARS,
S/O.VINCENT @ FRANCIS, MURINGATHERI HOUSE,
PATHIYARAM DESOM, NELLUVAI VILLAGE, THRISSUR.**
 - 5. M.F.JOSE, AGED 47 YEARS,
S/O.VINCENT @ FRANCIS, MURINGATHERI HOUSE,
PATHIYARAM DESOM, NELLUVAI VILLAGE, THRISSUR.**

**BY ADVS.SRI.S.RAJEEV,
SRI.K.K.DHEERENDRAKRISHNAN.**

RESPONDENTS/STATE/COMPLAINANT/CHARGE WITNESSES:

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- 1. STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM,
(CRIME NO.33/2007 OF ERUMAPETTY POLICE STATION,
THRISSUR DISTRICT-688 001).**
 - 2. K.M.ANTONY, AGED 55 YEARS, (CW1)
S/O.KURIAN, KARIMBIL HOUSE,
NELLULVAI VILLAGE, PATHIYARAM DESOM,
KUTTANCHERRY. P.O., THRISSUR- 680 584.**

3. A.K.THOMAS, AGED 68 YEARS, (CW2, CW28)
S/O.KOCHOUSEPH, ALOOR VEEDU,
NELLULVAI VILLAGE, PATHIYARAM DESOM,
KUTTANCHERRY.P.O, THRISSUR- 680 584.
4. M.P.ANTONY, AGED 40 YEARS, (CW3, CW29)
S/O.POULOSE, MURINGATHERI HOUSE,
PATHIYARAM DESOM, NELLUVAI VILLAGE,
THRISSUR-680 584.
5. M.L.SUNNY, AGED 50 YEARS, (CW4)
S/O.LAZAR, MURINGATHERI HOUSE,
PATHIYARAM DESOM, NELLUVAI VILLAGE,
THRISSUR- 680 584.
6. E.V.SAJI, AGED 33 YEARS, (CW5)
S/O.VARGHESE, EDAKKALATHOOR HOUSE,
PATHIYARAM DESOM, NELLUVAI VILLAGE,
KUTTANCHERRY P.O., THRISSUR-680 584.
7. ROSY VARGHESE, AGED 68 YEARS, (CW6)
W/O.VARGHESE, EDAKKALATHOOR HOUSE,
PATHIYARAM DESOM, NELLUVAI VILLAGE,
KUTTANCEHRRY.P.O, THRISSUR- 680 584.
8. E.V.DIXON, AGED 44 YEARS, (CW7)
S/O.VARGHESE, EDAKKALATHOOR HOUSE,
PATHIYARAM DESOM, NELLUVAI VILLAGE,
KUTTANCHERRY P.O., THRISSUR- 680 584.
9. PRAKASAN, AGED 49 YEARS, (CW8)
S/O.KUMARAN, ATHIRINGAL HOUSE,
THAMARAYOOR, POOKKODE, THRISSUR-680 505.
10. BINDU, AGED 35 YEARS, (CW9)
W/O.PRAKASAN, ATHIRINKAL HOUSE,
THAMARAYOOR, POOKKODE, THRISSUR-680 505.
11. A.F.VARGHESE, AGED 57 YEARS, (CW10)
S/O.FRANCIS, ALOOR VEEDU,
NELLULVAI VILLAGE, PATHIYARAM DESOM,
KUTTANCHERRY.P.O, THRISSUR- 680 584.
12. M.K.POULOSE, AGED 80 YEARS, (CW11)
S/O.KUREED, MURINGATHERI HOUSE,
PATHIYARAM DESOM, NELLUVAI VILLAGE,
KUITTANCHERRY.P.O, THRISSUR- 680 584.
13. SHAINY ANTO, AGED 40 YEARS, (CW12)
W/O.ANTO, PULIKKOTTIL HOUSE,
NELLULVAI VILLAGE, PATHIYARAM DESOM,
KUTTANCHERRY.P.O, THRISSUR- 680 584.

14. K.V.MARGILI, AGED 45 YEARS, (CW13)
W/O.KOCHU VARKEY, KAITHARATH HOUSE,
NELLULVAI VILLAGE, PATHIYARAM DESOM,
KUTTANCHERRY.P.O, THRISSUR- 680 584.
15. KOCHU VARKEY, AGED 72 YEARS, (CW14)
S/O.THOMA, KAITHARATH HOUSE,
NELLULVAI VILLAGE, PATHIYARAM DESOM,
KUTTANCHERRY.P.O, THRISSUR- 680 584.
16. JINI JOHNSON, AGED 32 YEARS, (CW15)
W/O.JOHNSON, KAITHARATH HOUSE,
NELLULVAI VILLAGE, PATHIYARAM DESOM,
KUTTANCHERRY.P.O, THRISSUR- 680 584.
17. PARVATHY M.S, AGED 50 YEARS, (CW16)
W/O.MOHANAN, MOORAYIL HOUSE,
NELLULVAI VILLAGE, PATHIYARAM DESOM,
KUTTANCHERRY.P.O, THRISSUR- 680 584.
18. DEVAKI, AGED 71 YEARS, (CW17)
W/O.RAGHAVAN, THEKKOOT HOUSE,
NELLULVAI VILLAGE, PATHIYARAM DESOM,
KUTTANCHERRY.P.O, THRISSUR- 680 584.
19. PARVATHY AMMA, AGED 49 YEARS, (CW18)
W/O.ACHUTHAN NAIR, MOOTHEDATH @ MOORAYIL HOUSE,
NELLULVAI VILLAGE, PATHIYARAM DESOM,
KUTTANCHERRY.P.O, THRISSUR- 680 584.
20. M.A.JOSEPH, AGED 53 YEARS, (CW19)
S/O.ESTHAPPAN, MURINGATHERI HOUSE,
PATHIYARAM DESOM, NELLULVAI VILLAGE,
KUTTANCHERRY.P.O, THRISSUR-680 584.
21. A.V. VINCENT, AGED 65 YEARS, (CW20)
S/O.VARU, AYAMKULAM HOUSE,
NELLULVAI VILLAGE, PATHIYARAM DESOM,
KUTTANCHERRY.P.O, THRISSUR- 680 584.
22. A.G.DAVIS, AGED 50 YEARS, (CW21)
S/O.GEORGE, ALOOR VEEDU,
NELLULVAI VILLAGE, PATHIYARAM DESOM,
KUTTANCHERRY.P.O, THRISSUR- 680 584.
23. K.D.VARGHESE, AGED 49 YEARS, (CW22)
S/O.DEVASSY, KANNANAICKAL HOUSE,
NELLULVAI VILLAGE, PATHIYARAM DESOM,
KUTTANCHERRY.P.O, THRISSUR- 680 584.
24. K.J.POULOSE, AGED 84 YEARS, (CW23)
S/O.JOSEPH, KANNANAICKAL HOUSE,
NELLULVAI VILLAGE, PATHIYARAM DESOM,
KUTTANCHERRY.P.O, THRISSUR- 680 584.

25. K.R.CHANDRAN, AGED 60 YEARS, (CW24)
S/O.RAVUNNI NAIR, KURUPPATH HOUSE,
NELLULVAI VILLAGE, PATHIYARAM DESOM,
KUTTANCHERRY.P.O, THRISSUR- 680 584.
26. C.D.BABU @ JOSEPH DEVASSY, AGED 46 YEARS, (CW25)
S/O.DEVASSY, CHITTILAPPILLY HOUSE,
NELLULVAI VILLAGE, PATHIYARAM DESOM,
KUTTANCHERRY.P.O, THRISSUR- 680 584.
27. M.A.JOSEPH, AGED 53 YEARS, (CW26)
[LEGAL HEIR OF M.O.BRIJITH], S/O.ESTHAPPAN,
MURINGATHERI HOUSE, NELLULVAI VILLAGE,
PATHIYARAM DESOM, KUTTANCHERRY.P.O,
THRISSUR- 680 584.
28. ROSY VARGHESE, AGED 68 YEARS, (CW27)
[LEGAL HEIR OF ELIKUTTY], W/O.VARGHESE,
EDAKKALATHOOR HOUSE, NELLULVAI VILLAGE,
PATHIYARAM DESOM, KUTTANCHERRY.P.O,
THRISSUR- 680 584.
29. A.V.MANU, AGED 76 YEARS, (CW30)
S/O.VAPPU, ANDAKKATTUPEEDIKAYIL HOUSE,
NELLULVAI VILLAGE, PATHIYARAM DESOM,
KUTTANCHERRY.P.O, THRISSUR- 680 584.
30. A.D.GEORGE, AGED 78 YEARS, (CW31)
S/O.VARGHESE, ALOOR VEEDU,
NELLULVAI VILLAGE, PATHIYARAM DESOM,
KUTTANCHERRY.P.O, THRISSUR- 680 584.
31. A.G. BOBAN, AGED 44 YEARS, (CW32)
S/O.GEORGE, ALOOR VEEDU,
NELLULVAI VILLAGE, PATHIYARAM DESOM,
KUTTANCHERRY.P.O, THRISSUR- 680 584.

R1 BY PUBLIC PROSECUTOR SMT.P. MAYA.
R2 TO R31 BY ADV. SRI.VINOD KUMAR.C.

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 02-02-2015, THE COURT ON THE SAME DAY PASSED
THE FOLLOWING:

rs.

APPENDIX

PETITIONER'S ANNEXURES:-

- ANNEXURE I-** CERTIFIED COPY OF THE FIRST INFORMATION REPORT IN CRIME NO.33/2007 OF ERUMAPETTY POLICE STATION.
- ANNEXURE II-** CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.33/2007 OF ERUMAPETTY POLICE STATION.
- ANNEXURE III-** TWO NOTARIZED SEPARATE AFFIDAVITS DATED 23.05.2014 SWORN BY RESPONDENTS NO.2 WITH RESPECT TO FIRST PETITIONER AND PETITIONERS NO.2 TO 5.
- ANNEXURE IV-** TWO NOTARIZED SEPARATE AFFIDAVITS DATED 23.05.2014 SWORN BY RESPONDENTS NO.3 WITH RESPECT TO FIRST PETITIONER AND PETITIONERS NO.2 TO 5.
- ANNEXURE V-** TWO NOTARIZED SEPARATE AFFIDAVITS DATED 23.05.2014 SWORN BY RESPONDENTS NO.4 WITH RESPECT TO FIRST PETITIONER AND PETITIONERS NO.2 TO 5.
- ANNEXURE VI-** TWO NOTARIZED SEPARATE AFFIDAVITS DATED 23.05.2014 SWORN BY RESPONDENTS NO.5 WITH RESPECT TO FIRST PETITIONER AND PETITIONERS NO.2 TO 5.
- ANNEXURE VII-** TWO NOTARIZED SEPARATE AFFIDAVITS DATED 23.05.2014 SWORN BY RESPONDENTS NO.6 WITH RESPECT TO FIRST PETITIONER AND PETITIONERS NO.2 TO 5.
- ANNEXURE VIII-** TWO NOTARIZED SEPARATE AFFIDAVITS DATED 23.05.2014 SWORN BY RESPONDENTS NO.7 WITH RESPECT TO FIRST PETITIONER AND PETITIONERS NO.2 TO 5.
- ANNEXURE IX-** TWO NOTARIZED SEPARATE AFFIDAVITS DATED 23.05.2014 SWORN BY RESPONDENTS NO.8 WITH RESPECT TO FIRST PETITIONER AND PETITIONERS NO.2 TO 5.
- ANNEXURE X-** TWO NOTARIZED SEPARATE AFFIDAVITS DATED 23.05.2014 SWORN BY RESPONDENTS NO.9 WITH RESPECT TO FIRST PETITIONER AND PETITIONERS NO.2 TO 5.
- ANNEXURE XI-** TWO NOTARIZED SEPARATE AFFIDAVITS DATED 23.05.2014 SWORN BY RESPONDENTS NO.10 WITH RESPECT TO FIRST PETITIONER AND PETITIONERS NO.2 TO 5.
- ANNEXURE XII-** TWO NOTARIZED SEPARATE AFFIDAVITS DATED 23.05.2014 SWORN BY RESPONDENTS NO.11 WITH RESPECT TO FIRST PETITIONER AND PETITIONERS NO.2 TO 5.
- ANNEXURE XIII-** TWO NOTARIZED SEPARATE AFFIDAVITS DATED 23.05.2014 SWORN BY RESPONDENTS NO.12 WITH RESPECT TO FIRST PETITIONER AND PETITIONERS NO.2 TO 5.

- ANNEXURE XIV- TWO NOTARIZED SEPARATE AFFIDAVITS DATED 23.05.2014 SWORN BY RESPONDENTS NO.13 WITH RESPECT TO FIRST PETITIONER AND PETITIONERS NO.2 TO 5.**
- ANNEXURE XV- TWO NOTARIZED SEPARATE AFFIDAVITS DATED 23.05.2014 SWORN BY RESPONDENTS NO.14 WITH RESPECT TO FIRST PETITIONER AND PETITIONERS NO.2 TO 5.**
- ANNEXURE XVI- TWO NOTARIZED SEPARATE AFFIDAVITS DATED 23.05.2014 SWORN BY RESPONDENTS NO.15 WITH RESPECT TO FIRST PETITIONER AND PETITIONERS NO.2 TO 5.**
- ANNEXURE XVII- TWO NOTARIZED SEPARATE AFFIDAVITS DATED 23.05.2014 SWORN BY RESPONDENTS NO.16 WITH RESPECT TO FIRST PETITIONER AND PETITIONERS NO.2 TO 5.**
- ANNEXURE XVIII- TWO NOTARIZED SEPARATE AFFIDAVITS DATED 23.05.2014 SWORN BY RESPONDENTS NO.17 WITH RESPECT TO FIRST PETITIONER AND PETITIONERS NO.2 TO 5.**
- ANNEXURE XIX- TWO NOTARIZED SEPARATE AFFIDAVITS DATED 23.05.2014 SWORN BY RESPONDENTS NO.18 WITH RESPECT TO FIRST PETITIONER AND PETITIONERS NO.2 TO 5.**
- ANNEXURE XX- TWO NOTARIZED SEPARATE AFFIDAVITS DATED 23.05.2014 SWORN BY RESPONDENTS NO.19 WITH RESPECT TO FIRST PETITIONER AND PETITIONERS NO.2 TO 5.**
- ANNEXURE XXI- TWO NOTARIZED SEPARATE AFFIDAVITS DATED 23.05.2014 SWORN BY RESPONDENTS NO.20 WITH RESPECT TO FIRST PETITIONER AND PETITIONERS NO.2 TO 5.**
- ANNEXURE XXII- TWO NOTARIZED SEPARATE AFFIDAVITS DATED 23.05.2014 SWORN BY RESPONDENTS NO.21 WITH RESPECT TO FIRST PETITIONER AND PETITIONERS NO.2 TO 5.**
- ANNEXURE XXIII- TWO NOTARIZED SEPARATE AFFIDAVITS DATED 23.05.2014 SWORN BY RESPONDENTS NO.22 WITH RESPECT TO FIRST PETITIONER AND PETITIONERS NO.2 TO 5.**
- ANNEXURE XXIV- TWO NOTARIZED SEPARATE AFFIDAVITS DATED 23.05.2014 SWORN BY RESPONDENTS NO.23 WITH RESPECT TO FIRST PETITIONER AND PETITIONERS NO.2 TO 5.**
- ANNEXURE XXV- TWO NOTARIZED SEPARATE AFFIDAVITS DATED 23.05.2014 SWORN BY RESPONDENTS NO.24 WITH RESPECT TO FIRST PETITIONER AND PETITIONERS NO.2 TO 5.**
- ANNEXURE XXVI- TWO NOTARIZED SEPARATE AFFIDAVITS DATED 23.05.2014 SWORN BY RESPONDENTS NO.25 WITH RESPECT TO FIRST PETITIONER AND PETITIONERS NO.2 TO 5.**

- ANNEXURE XXVII- TWO NOTARIZED SEPARATE AFFIDAVITS DATED 23.05.2014
SWORN BY RESPONDENTS NO.26 WITH RESPECT TO
FIRST PETITIONER AND PETITIONERS NO.2 TO 5.**
- ANNEXURE XXVIII- TWO NOTARIZED SEPARATE AFFIDAVITS DATED 23.05.2014
SWORN BY RESPONDENTS NO.27 WITH RESPECT TO
FIRST PETITIONER AND PETITIONERS NO.2 TO 5.**
- ANNEXURE XXIX- TWO NOTARIZED SEPARATE AFFIDAVITS DATED 23.05.2014
SWORN BY RESPONDENTS NO.28 WITH RESPECT TO
FIRST PETITIONER AND PETITIONERS NO.2 TO 5.**
- ANNEXURE XXX- TWO NOTARIZED SEPARATE AFFIDAVITS DATED 23.05.2014
SWORN BY RESPONDENTS NO.29 WITH RESPECT TO
FIRST PETITIONER AND PETITIONERS NO.2 TO 5.**
- ANNEXURE XXXI- TWO NOTARIZED SEPARATE AFFIDAVITS DATED 23.05.2014
SWORN BY RESPONDENTS NO.30 WITH RESPECT TO
FIRST PETITIONER AND PETITIONERS NO.2 TO 5.**
- ANNEXURE XXXII- TWO NOTARIZED SEPARATE AFFIDAVITS DATED 23.05.2014
SWORN BY RESPONDENTS NO.31 WITH RESPECT TO
FIRST PETITIONER AND PETITIONERS NO.2 TO 5.**

RESPONDENT'S ANNEXURES:- NIL.

//TRUE COPY//

P.A TO JUDGE

rs.

P. UBAID, J.

Crl.M.C.No.5907 of 2014

Dated this the 2nd day of February, 2015

O R D E R

The petitioners herein are the five accused in Crime No.33/2007 of the Erumapetty Police Station. The case against the first accused is now pending as C.C.No.179/2014 before the Judicial First Class Magistrate Court, Vakaddanchery. The case against the accused numbers 2 to 5 stands transferred to the register of long pending cases as L.P.No.116/2009. The petitioners seek orders quashing the prosecution on the ground of amicable settlement of the whole dispute between them and the de facto complainant, and also the other victims of offence. Crime in this case was registered under Sections 406 and 420 IPC read with 34 IPC, on the basis of a complaint made by one Antony, 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 victims of offence cited by the police are the respondent Nos.3 to 31 in this proceeding. They have also filed

affidavit to the effect that they have settled the whole dispute with the accused and they have 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 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.179/2014 and in L.P.No.116/2009 of the Judicial First Class Magistrate's Court, Vadakkanchery will stand quashed under Section 482 of the Code

of Criminal Procedure. Accordingly, the petitioners will stand released from prosecution.

sd

Sd/-
P. UBAID, JUDGE