

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 5TH DAY OF FEBRUARY 2015/16TH MAGHA, 1936

Crl.MC.No. 5913 of 2014 (D)

(AGAINST THE ORDER/JUDGMENT IN CP 27/2014 of J.M.F.C. - I, ETTUMANUR DATED)

PETITIONERS/ACCUSED 1-3:

- 1. SREEKANT, AGED 34 YEARS,
S/O.RAMAKRISHNAN NAIR, MALIYIL VEEDU, ELAMKULAM,
NATTASSERY, ELUPPULIKKADU, SHM P.O.,
KOTTAYAM.**
- 2. SHYAMRAJ @ UNNI, AGED 34 YEARS,
S/O.RAJAPPAN, MANDAPATHIL VEEDU, SHM P.O.,
NATTASSERY KARA, VIJAYAPURAM VILLAGE, KOTTAYAM.**
- 3. ANI LUCOSE @ ANIYAPPAN, AGED 36 YEARS,
S/O.LUCOSE, VENGACHERRY VEEDU, VATTAMOOTTU KADAVU,
NATTASSERY, VIJAYAPURAM, KOTTAYAM.**

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

RESPONDENT(S)/STATE/DEFACTO COMPLAINANT/INJURED:

- 1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682031,
(CRIME NO.403/2014 OF GANDHI NAGAR POLICE STATION,
KOTTAYAM DISTRICT)**
- 2. RUBY ISSAC, AGED 33 YEARS,
S/O.C.D.ISSAC, CHERUKUNNEL HOUSE, S.H.MOUNT P.O.,
KOTTAYAM DISTRICT-686006.**
- 3. RAMESH D., AGED 34 YEARS,
S/O.DEVASSYA JOSEPH, UDAYAMPUTHOOR VEETIL, SHM P.O.,
KOTTAYAM-686006.**

(P.T.O)

**4. SUJITH KUMAR P.C., AGED 27 YEARS,
S/O.CHANDRAN, PANDIYANGANMALAYIL 4, MULLUSSERY NORTH,
KUMARANELLUR P.O., KOTTAYAM-686041.**

**R2-R4 BY ADV. SRI.VINOD KUMAR.C
BY PUBLIC PROSECUTOR, SMT. P. MAYA**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
05-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 5913 of 2014 (D)

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE 1: COPY OF THE FIR IN CR.NO.403/2014 OF GANDHI NAGAR POLICE STATION.

ANNEXURE 2: COPY OF THE FINAL REPORT IN CR.NO.403/2014 OF GANDHI NAGAR POLICE STATION, KOTTAYAM DISTRICT.

ANNEXURE 3: AFFIDAVIT SWORN BY R2 DT.16-10-2014.

ANNEXURE 4: AFFIDAVIT SWORN BY R3 DT.16-10-2014.

ANNEXURE 5: AFFIDAVIT SWORN BY R4 DT.16-10-2014.

RESPONDENTS' EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

DST

P. UBAID, J.

Cr.M.C.No.5913 of 2014

Dated this the 5th day of February, 2015

O R D E R

The petitioners herein are the three accused in C.P.No. 27/2014 of the Judicial First Class Magistrate Court, Ettumannoor. 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 341,323,324 and 308 IPC read with 34 IPC on the complaint of one Ruby Issac, 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. The other persons who sustained injuries in the alleged incident are the respondent Nos.3 and 4 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. On a perusal of the case records, I find that there is nothing to attract the offence under Section 308

IPC. I find that such Section was incorporated without any basis, or on the basis of a purely hypothetical statement. Any way, the parties have come to terms out of court.

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/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, 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.P.No.27/2014 of the Judicial First Class Magistrate Court, Ettumannoor, 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

sd