

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

THURSDAY, THE 10TH DAY OF SEPTEMBER 2015/19TH BHADRA, 1937

Cr1.MC.No. 6134 of 2014 ()

(IN CRIME NO. 926/2008 OF KASARAGOD POLICE STATION, KASARGOD)

PETITIONER(S) /ACCUSED:

1. SHAMSU @ SHAMSUDEEN, AGED 31 YEARS,
S/O.ABDUL RAHMAN, PERVAD, KUMBALA.P.O.,
KASARAGOD.
2. JALLU @ ABDUL JALEEL, AGED 31 YEARS,
S/O.YUSUF @ MOIDEEN KUTTY, R/AT AZAD NAGAR,
KUDLU VILLAGE, KASARAGOD TALUK.
3. EPPI @ K.M.RAFEEQUE, AGED 31 YEARS,
S/O.ABDUL RAHIMAN, R/AT AZAD NAGAR, KUDLU VILLAGE,
KASARAGOD TALUK.
4. SAAVU @ SHAHUL HAMEED, AGED 29 YEARS,
S/O.MOHAMMED, R/AT PANCHATHA KUNNU, MOGRAL PUTHUR,
KASARAGOD TALUK.
5. FAYAZ @ ABDUL AYAZ, AGED 27 YEARS,
S/O.HASSAN, R/AT CHEMNAD VILLAGE, KASARAGOD TALUK.

BY ADV. SMT.R.PADMAKUMARI

RESPONDENT(S) /STATE & COMPLAINANT:

1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
2. RAVICHANDRA, AGED 32 YEARS,
S/O.SANJU SHETTY, R/AT PANCHATHAKUNNU,
MOGRALPUTHUR.P.O., KUDLU, KASARAGOD TALUK & DISTRICT.
671 121.

R2 BY ADV. SMT.SUSAN MATHEW

R1 BY PUBLIC PROSECUTOR SMT.SAREENA P. GEORGE

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
10-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

:2:

Crl.MC.No. 6134 of 2014 ()

APPENDIX

PETITIONER(S) ' EXHIBITS

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ANNEXURE A1- TRUE COPY OF THE FIR IN CRIME NO.926/2008 OF
KASARAGOD POLICE STATION.

ANNEXURE A2- TRUE COPY OF THE CHARGE SHEET FILED IN CRIME
NO.926/2008 OF KASARAGOD POLICE STATION.

ANNEXURE A3- THE ORIGINAL OF MEMORANDUM OF SETTLEMENT DATED
28.8.2014.

RESPONDENT(S) ' EXHIBITS

:

// True Copy//

P.A. to Judge

ss

K. RAMAKRISHNAN, J.

Crl. M.C.No.6134 of 2014

Dated this the 10th day of September, 2015

ORDER

This is an application filed by accused Nos. 1 to 5 in Crime No.926/2008 of Kasaragod police station to quash the proceedings on the basis of settlement under Section 482 of the Code of Criminal Procedure.

2. It is alleged in the petition that, on the basis of the statement given by the 2nd respondent, Annexure-1 crime was registered as Crime No.926/2008 of Kasaragod police station against the present petitioners and three identifiable persons alleging offences under Section 143, 147, 148, 341, 326, 308 read with Section 149 of the Indian Penal Code. After investigation Annexure-2 final report was filed against the petitioners alleging commission of the above said offences before the Judicial First Class Magistrate Court, Kasaragod, where it was taken on file as C.P.No.338/2010. According to the petitioners, case against accused Nos.2 and 3 has been committed to the court of

Sessions and now pending as S.C.No.506/2013 before the Assistant Sessions Court, Kasaragod. Accused Nos. 1 and 4 were absconding. So the case against them was split up and refilled as L.P.C.No.25/2012. Thereafter the 4th petitioner surrendered and he was released on bail. The first petitioner is still absconding. Since the matter has been settled between the parties, there is no scope for conviction and so they prayed for allowing the application for quashing the proceedings.

3. The 2nd respondent appeared through counsel and submitted that the matter has been settled between the parties and he has no objection in allowing the application and he had filed Annexure-3 affidavit stating these facts.

4. The counsel for the petitioners also submitted that in view of the settlement, no purpose will be served by keeping this case.

5. On the other hand the application was opposed by the Government Pleader Smt.Sareena P.

George, Senior Government Pleader appearing for the first respondent submitted that, since offence under Section 326 and 308 of the Indian penal Code has been incorporated, it is not a fit case to quash the proceedings. Further the first accused is an accused in several cases as well and he is an absconding accused.

6. It is seen from Annexure-1 that, it was registered on the basis of the statement given by the defacto-complainant himself against the petitioners and three identifiable persons alleging offences under Section 143, 147, 148, 341, 326, 308 read with Section 149 of the Indian Penal Code. It is also seen from Annexure-2 that, after investigation final report was filed against the present petitioners along with others alleging offences under Section 143, 147, 148, 341, 326, 308 read with Section 149 of the Indian Penal Code. It is also in away admitted in the petition that originally 2nd and 3rd accused alone appeared and it is seen from the records produced that the case was taken on file by the Judicial First Class Magistrate,

Kasaragod, as C.P.No.338/2010 and thereafter since accused Nos. 2 and 3 alone appeared, the case against them was committed to Sessions Court where it was taken on file as S.C.No.506/2013 and now pending before the Assistant Sessions Court, Kasaragod. It is also seen from the petition itself that, later the 4th petitioner also appeared as directed by this court and he has been released on bail and the case against him was refilled as well. But the first accused herein is still absconding. It is seen from the statement filed by the Government Pleader that first petitioner is accused in Crime No.762/2007 under Section 143, 147, 148, 341, 324, 308 read with Section 149 of the Indian Penal Code and that after investigation, final report was filed and pending as LPC No.26/2012. The 2nd accused is also accused in that case and he is also accused in Crime Nos.713/2008 and 370/2014 of Kasaragod police station. 3rd accused in the petition is also accused in Crime No.762/2007 along with accused Nos.1 and 2, apart from that he is accused in Crime No.713/2008 and 370/2014 as well. So under the

circumstances it cannot be said that the accused persons are not having any criminal back ground. Further grave offences punishable under Section 326 and 308 of the Indian Penal Code were also added after investigation in this case. It is not a case of private dispute as submitted by the counsel for the petitioners and the 2nd respondent. The persons having criminal background have involved in the crime and committed the crime against the present respondent as well. It cannot be treated as a case of not having public interest, especially when the accused Nos. 1 to 3 are having other criminal cases of grave nature as well including the case of murder. So under the circumstances it is not known under what circumstances the matter has been settled between the defacto-complainant and the accused. It is settled law that in cases where public interest is involved and hardened criminals are involved in committing crimes, in such cases it is not proper for this court to invoke the power under Section 482 of the Code of Criminal Procedure to quash the proceedings, merely on the

ground that the complainant had come before this court and stated that the matter has been settled as it will give a wrong signal to the society. So under the circumstances, this court feels that it is not a fit where the power under Section 482 of the Code of Criminal Procedure can be invoked to quash the proceedings as against the petitioners as claimed in the petition and the petition is liable to be dismissed.

In the result, the petition is dismissed.

Sd/-
K. Ramakrishnan, Judge

// True Copy//

P.A. to Judge