

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 8TH DAY OF DECEMBER 2015/17TH AGRAHAYANA, 1937

Crl.MC.No. 7648 of 2015 ()

**SC 258/2011 of ADDITIONAL ASSISTANT SESSIONS COURT, THALASSERY
CRIME NO. 125/2009 OF KUTHUPARAMBA POLICE STATION, KANNUR DISTRICT**

PETITIONERS/ACCUSED:

1. JAFFAR T.P., AGED 63 YEARS
S/O. ABDULLA HAJI, 'AABIDATH MANZIL', CHALUPARAMBU
VENGAD DESOM, PADUVILAYIL AMSOM, THALASSERY TALUK
2. K N IQBAL, AGED 30 YEARS
S/O. JAFFAR T.P, 'AABIDATH MANZIL', CHALUPARAMBU
VENGAD DESOM, PADUVILAYIL AMSOM, THALASSERY TALUK
3. K. N AYSHA, AGED 46 YEARS
W/O. JAFFAR T.P, AABIDATH MANZIL, CHALUPARAMBU
VENGAD DESOM, PADUVILAYIL AMSOM, THALASSERY TALUK
4. K N AABIDA AGED 25 YEARS
W/O. ABDUL LATHEEF, AABIDATH MANZIL, CHALUPARAMBU
VENGAD DESOM, PADUVILAYIL AMSOM, THALASSERY TALUK
5. K N SAFIYA AGED 39 YEARS
W/O. K K MUHAMMAD, CHALUPARAMBU, VENGAD DESOM
PADUVILAYIL AMSOM, THALASSERY TALUK
6. K N MUHAMMAD SHIHAB, AGED 27 YEARS
S/O. JAFFAR T.P, 'AABIDATH MANZIL', CHALUPARAMBU
VENGAD DESOM, PADUVILAYIL AMSOM, THALASSERY TALUK

BY ADV. SRI.V.BINOY RAM

RESPONDENTS/DEFACTO COMPLAINANT/STATE:

1. MAFEEDA KALARIKKANDY, AGED 35 YEARS
W/O. MOIDU, CHALUPARAMBA HOUSE, VENGAD ANGADI
VENGAD P.O, PADUVILAYI AMSOM, THALASSERY TALUK
KANNUR DISTRICT, PIN 670 612
 2. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM, PIN 682 031
- R1 BY ADV. SRI.K.M.GIRISH KUMAR
R BY SRI.K.M.GIRISH KUMAR
R2 BY PUBLIC PROSECUTOR SRI. JUSTIN JACOB

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 08-12-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONERS' EXHIBITS

ANNEXURE 1 TRUE COPY OF THE F.I.R IN CR. 125/2009 OF KUTHUPARAMBA POLICE STATION NOW PENDING AS S.C 258/2011 ON THE FILE OF ADDITIONAL ASSISTANT SESSIONS COURT, THALASSERY

ANNEXURE 2 TRUE COPY OF THE FINAL REPORT IN CR. 125/2009 OF KUTHUPARAMBA POLICE STATION NOW PENDING AS SC 258/2011 ON THE FILE OF ADDITIONAL ASSISTANT SESSIONS COURT, THALASSERY

ANNEXURE 3 TRUE COPY OF THE AFFIDAVIT SWORN BY THE 1ST RESPONDENT DATED 04-12-2015

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY // P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.7648 of 2015

Dated this the 8th day of December, 2015

O R D E R

The petitioners herein are the accused in S.C.No.258/2011 of the Additional Assistant Sessions Court, Thalassery. 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, 448, 354, 324, 323 and 308 read with 149 IPC, on the complaint of one Mafeeda Kalarikandy, who is the 1st 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.

2. On a perusal of the material including the complaint and the final report, I find that this is only a simple case of assault, and the police incorporated Section 308 IPC in the proceeding on the basis of a purely hypothetical statement. Any way, the whole dispute now stands resolved forever.

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. 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 S.C.No.258/2011 of the Additional Assistant Sessions Court, Thalassery 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

// True Copy //

P.A. to Judge