

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 18TH DAY OF DECEMBER 2015/27TH AGRAHAYANA, 1937

Crl.MC.No. 7684 of 2015 ()

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CC 1764/2014 of JUDICIAL FIRST CLASS MAGISTRATE COURT-II, KANNUR
CRIME NO. 321/2014 OF IRIKKOOR POLICE STATION, KANNUR DISTRICT
=====**

PETITIONER/ACCUSED:

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MAHMOOD C.H., AGED 69 YEARS, S/O. KALANTHAN MUSLIAR
CHIRATTAYADAN HOUSE, IRIKKOOR AMSOM, NEDUVALLOOR AMSOM
THALIPPARAMABA TALUK, KANNUR DISTRICT - 670 593.**

BY ADV. SRI.E.C.BINEESH

RESPONDENTS/STATE & COMPLAINANT:

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- 1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.**
 - 2. MUBEENA K, AGED 36 YEARS
W/O. ABDUL KALAM, KELOTH HOUSE, IRIKKOOR AMSOM
NEDUVALLOOR AMSOM, TALIPPARAMABA TALUK
KANNUR DISTRICT - 670 593.**

**R2 BY ADV. SMT.M.B.SHYNI
R1 BY PUBLIC PROSECUTOR SRI. JUSTIN JACOB**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 18-12-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

- A1 - A TRUE COPY OF THE CHARGE SHEET IN CRIME NO. 321/2014 OF IRIKKOOR
POLICE STATION, KANNUR DISTRICT.**
- A2 - A TRUE COPY OF THE AFFIDAVIT SWORN BY 2ND RESPONDENT DATED
28.11.2015.**

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY //

P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.7684 of 2015

Dated this the 18th day of December, 2015

O R D E R

The petitioner herein seeks orders quashing the prosecution against him in C.C.No.1764/2014 of the Judicial First Class Magistrate Court-II, Kannur, involving the offences under Section 324 IPC and Section 23 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (hereinafter referred to as 'the J.J.Act) on the ground of amicable settlement out of court. He is the grandfather of the victim of offence in this case. The complaint against him was made by his daughter, who is the mother of the victim. Now, the whole dispute stands settled amicably out of court. The defacto complainant has filed affidavit to the effect that the whole dispute stands settled amicably, and she has no grievance or complaint against her father. Even otherwise, a prosecution under Section 23 of the J.J.Act is not sustainable on facts. To sustain such a charge, the prosecution must have a case that the juvenile was mentally or physically harassed or tortured by the person in charge of the juvenile, or

having custody or control of the juvenile. The petitioner herein does not come under such category. So, this is only a case of simple assault, which comes only under Section 324 IPC. Infliction of injury with any burning substance will come under Section 324 IPC. Any way, the parties have now come to terms, and the petitioner is none other than the grandfather of the victim. Copy of the wound certificate made available to me by the learned Public Prosecutor shows that the victim had sustained some very simple burns on the neck. The petitioner has explanation for this. He submitted that it was not an intended or deliberate act. Any way, the victim is now happy with his grandfather. It is appropriate that the prosecution be quashed in such a situation.

In the result, this petition is allowed. The prosecution against the petitioner in C.C.No.1764/2014 of the Judicial First Class Magistrate Court-II, Kannur will stand quashed under Section 482 Cr.P.C.

Sd/-

P. UBAID, JUDGE

sd

// True Copy //

P.A. to Judge