

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 18TH DAY OF FEBRUARY 2015/29TH MAGHA, 1936

Crl.MC.No. 6498 of 2014 ()

**IN SC 1326/2006 of PRINCIPAL SUB COURT,ATTINGAL
CRL.A NO.540 OF 2011 OF THE II ADDITIONAL SESSIONS JUDGE,
THIRUVANANTHAPURAM**

PETITIONER(S)/ACCUSED NOS. 2,3 & 4:

- 1. SHIJU AGED 36 YEARS
S/O.IQBAL, CHARUVILA VEEDU, 9/623
RATHICKAL, VETTOOR DESOM, VETTOOR VILLAGE
THIRUVANANTHAPURAM DISTRICT.**
- 2. SHAFFI AGED 36 YEARS
S/O.ILYAS, OOTUKUZH VEEU, OOTUKUZH
RATHICKAL, VETTOOR DESOM, VETTOOR VILLAGE
THIRUVANANTHAPURAM DISTRICT.**
- 3. MAFLAL AGED 36 YEARS
S/O.BASATH, MASILAM MANZIL, NEAR KUNJANTE KADAMUKKU
RATHICKAL, VETTOOR VILLAGE
THIRUVANANTHAPURAM DISTRICT.**

**BY ADVS.SRI.SASTHAMANGALAM S. AJITHKUMAR
SRI.V.S.THOSHIN**

RESPONDENT(S)/DEFACTO COMPLAINANTS:

- 1. THE STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM
THROUGH SUB INSPECTOR OF POLICE
VARKALA POLICE STATION
THIRUVANANTHAPURAM. PIN-695 001.**
- 2. NOUSHAR, AGED 45 YEARS
S/O.MOHAMMED ILLIAS, ERUKKUVILA VEEDU, MOUNT MUKKU
RATHICKAL, VETTOOR VILLAGE
THIRUVANANTHAPURAM DISTRICT. PIN-695 021.**

**R2 BY ADV. SRI.T.K.BABU
R1 BY PUBLIC PROSECUTOR SMT. S. HYMA**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 18-02-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 6498 of 2014 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE A- THE PHOTO COPY OF THE FIR IN CRIME NO.47/05 OF VARKALA POLICE STATION, THIRUVANANTHAPURAM.

ANNEXURE B- THE PHOTOCOPY OF THE FINAL REPORT AS C.P.NO.67/05.

ANNEXURE C- THE CERTIFIED FREE CARBON COPY OF THE JUDGMENT OF CONVICTION IN S.C.NO.1326/06 DT. 17.10.11 OF ASSISTANT SESSIONS' JUDGE, ATTINGAL, THIRUVANANTHAPURAM.

ANNEXURE D- THE TRUE COPY OF THE NOTARIZED AFFIDAVIT OF THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

PA TO JUDGE
sab

P.UBAID, J.

Crl. M.C No. 6498 of 2014

Dated this the 18th day of February, 2015.

O R D E R

The petitioners herein are the accused Nos.2, 3 and 4 in S.C No. 1326 of 2006 of the Court of Session, Thiruvananthapuram. On trial the learned Assistant Sessions Judge, Attingal found them guilty under Sections 341, 326 and 308 IPC. They were sentenced to undergo rigorous imprisonment for 5 years each, and to pay a fine of Rs. 25,000/- each under Sections 326 and 308 IPC. They were further sentenced to undergo simple imprisonment for one month under Section 341 IPC. Aggrieved by the conviction and sentence the petitioners preferred appeal before the Court of Session, Thiruvananthapuram as Crl. Appeal No. 540 of 2011. That appeal is pending consideration before the learned II Additional Sessions Judge, Thiruvananthapuram. Pending the proceedings the parties came to terms out of court, and settled the whole dispute. The crime was registered on the complaint of one Noushar. He is the second respondent in this proceeding brought under Section 482 Cr.P.C. In view of the amicable settlement the whole dispute made out of court the

petitioners seek orders quashing the whole proceeding including the appeal pending before the appellate court under Section 482 Cr.P.C. The second respondent Noushar appeared in court in person as directed by the court. On interacting with him I find that the whole dispute now stands amicably settled, and that the second respondent has received adequate amount of compensation from the petitioners. I am also satisfied that the settlement is genuine and voluntarily, and that the complainant Noushad has no grievance or complaint now.

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; be it at the crime stage or at the trial stage or even at the appellate stage, if the parties have come to terms amicably out of court, or if continuance of prosecution will not serve any purpose. Here I find a real and genuine case of settlement between the parties. Section 308 IPC was rightly incorporated in the proceedings, and now there is a conviction also under Section 308 IPC. But the parties have resolved the whole dispute forever amicably on the intervention of persons acceptable to both sides. I find that the parties are now on quite cordial

terms. In such a situation, the proceedings now pending by way of appeal can be quashed.

In the result, this petition is allowed. The prosecution against the petitioners herein, including the conviction and sentence in SC No. 1326 of 2006, and also the appeal proceedings before the court of Session, Thiruvananthapuram in Crl. Appeal No. 540 of 2011 will stand quashed under Section 482 Cr.P.C.

P.UBAID,
JUDGE

sab