

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 21ST DAY OF DECEMBER 2015/30TH AGRAHAYANA, 1937

Crl.MC.No. 7917 of 2015 ()

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CRIME NO. 1018/2014 OF PERINTHALMANNA POLICE STATION , MALAPPURAM
DISTRICT
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PETITIONERS/ACCUSED:

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- 1. MOHAMMEDALI @ VAAPPUTTY, AGED 50 YEARS
PULAKODAN HOUSE, S/O. MUHAMMEDKUTTY
ERATTAPPULAKKAL HOUSE, MUTHIRAMANNA, THAZHEKKODU WEST
PERINTHALAMANNA TALUK, MALAPPURAM DISTRICT.**
 - 2. JAFAR @ SADHIV JAFAR, AGED 40 YEARS
S/O. MUHAMMEDKUTTY, ERATTAPPULAKKAL HOUSE
MUTHIRAMANNA, THAZHEKKODU WEST, PERINTHALAMANNA TALUK
MALAPPURAM DISTRICT.**
 - 3. HAMSAPPA @ HAMSA, AGED 48 YEARS
S/O. MUHAMMEDKUTTY, ERATTAPPULAKKAL HOUSE
MUTHIRAMANNA, THAZHEKKODU WEST, PERINTHALAMANNA TALUK
MALAPPURAM DISTRICT.**
 - 4. NASEER, AGED 42 YEARS
S/O. MUHAMMEDKUTTY, ERATTAPPULAKKAL HOUSE
MUTHIRAMANNA, THAZHEKKODU WEST, PERINTHALAMANNA TALUK
MALAPPURAM DISTRICT.**
 - 5. MUHAMMEDKUTTY, AGED 68 YEARS
S/O. MUHAMMEDKUTTY, ERATTAPPULAKKAL HOUSE
MUTHIRAMANNA, THAZHEKKODU WEST, PERINTHALAMANNA TALUK
MALAPPURAM DISTRICT.**

BY ADV. SRI.P.SAMSUDIN

RESPONDENTS/STATE AND DEFACTO COMPLAINANT:

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- 1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM - 682 031
(CRIME NO. 1018/2014 OF PERINTHALMANNA POLICE STATION)**
 - 2. ALAVI, AGED 66 YEARS
S/O. KUNJAYAMMU, ERATTAPPULAKKAL HOUSE, MUTHIRAMANNA
THAZHEKKODE WEST, PERINTHALMANNA TALUK
MALAPPURAM DISTRICT - 679 322.**

3. MARIYA, AGED 54 YEARS
W/O. ASAINAR, ERATTAPPULAKKAL HOUSE, MUTHIRAMUNNA
THAZHEKKODU AMSOM DESOM, PERINTHALMANNA TALUK
MALAPPURAM DISTRICT - 679 322.
 4. ASAINAR, AGED 69 YEARS
S/O. KUNJAYAMMU, ERATTAPPULAKKAL HOUSE, MUTHIRAMANNA
THAZHEKKODU WEST, PERINTHALMANNA TALUK
MALAPPURAM DISTRICT - 679 322
 5. BASHEER, AGED 45 YEARS
S/O. ASAINAR, ERATTAPPULAKKAL HOUSE, MUTHIRAMANNA
TAZHEKKODU WEST, PERINTHALMANNA TALUK
MALAPPURAM DISTRICT - 679 322.
- R2-R5 BY ADV. SRI.K.C.ANTONY MATHEW
R1 BY PUBLIC PROSECUTOR SMT. SHEEBA M.T.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 21-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS

- A1 - TRUE COPY OF FINAL REPORT IN CRIME NO. 1018/2014 OF PERINTHALMANNA POLICE STATION.**
- A2 - THE AFFIDAVIT SWORN IN BY 2ND RESPONENT DT. 30.11.2015.**
- A3 - THE AFFIDAVIT SWORN IN BY 3RD RESPONENT DT. 30.11.2015.**
- A4 - THE AFFIDAVIT SWORN IN BY 4TH RESPONENT DT. 10.12.2015.**
- A5 - THE AFFIDAVIT SWORN IN BY 5TH RESPONENT DT. 10.12.2015.**

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY //

P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.7917 of 2015

Dated this the 21st day of December, 2015

O R D E R

The petitioners seek orders quashing the F.I.R and further proceedings in Crime No.1018/2014 of the Perinthalmanna Police Station, registered under Sections 143, 147, 148, 341, 323, 324, 354 and 308 read with 149 IPC, on the complaint of one Alavi. Orders are sought on the ground of amicable settlement of the whole dispute between the accused and the de facto complainant out of court. The de facto complainant Alavi 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. The other persons who sustained injuries in the alleged incident are the respondent Nos.3 to 5. They have also filed affidavit to the effect that they have settled the dispute with the accused, and they have no grievance or complaint now. On a perusal of the materials, I find that Section 308 IPC was incorporated in the FIR by the police on the basis of a purely

hypothetical statement. Any way, the parties have come to terms, and the whole issues stand resolved.

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 or revision stage; if the parties have really settled the whole dispute, or if continuance of prosecution will not serve any purpose. Here, I find a real case of settlement between the parties, and I also find that continuance of prosecution in such a situation will not serve any purpose other than wasting the precious time of the court, when the case ultimately comes before the court.

In the result, this petition is allowed. The Crime No.1018/2014 of the Perinthalmanna Police Station will stand quashed under Section 482 of the Code of Criminal Procedure. The counter case also stands settled and quashed.

Sd/-

P. UBAID, JUDGE

sd

// True Copy //

P.A. to Judge