

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 16TH DAY OF JANUARY 2015/26TH POUSHA, 1936

Crl.MC.No. 6864 of 2014 ()

**IN CP 133/2014 of JUDICIAL FIRST CLASS MAGISTRATE COURT - II, KOLLAM
CRIME NO. 1363/2014 OF KOLLAM EAST POLICE STATION , KOLLAM**

PETITIONER(S)/ACCUSED NO. 1 TO 5:

- 1. SAJAD , S/O.SAMAD AGED 23 YEARS
PRAVEEN HOUSE, HOUSE NO. 72, VIKAS NAGAR
PATTATHANAM CHERRY, VADAKKEVILA VILLAGE
KOLLAM DISTRICT.**
- 2. MUSTHAFA AGED 20 YEARS
S/O. MUHAMMED SANCHU, PUTHEN VEEDU, HOUSE NO. 88A
AKKARAVILA NAGAR, VADAKKEVILA CHERRY
VADAKKEVILA VILLAGE, KOLLAM DISTRICT.**
- 3. MUHAMMED SANCHU AGED 45 YEARS
PUTHEN VEEDU, HOUSE NO. 88A, AKKARAVILA NAGAR
VADAKKEVILA CHERRY, VADAKKEVILA VILLAGE
KOLLAM DISTRICT.**
- 4. SAMAD AGED 52 YEARS
S/O. DASAIN, PRAVEEN HOUSE, HOUSE NO. 72
VIKAS NAGAR, PATTATHANAM CHERRY, VADAKKEVILA VILLAGE
KOLLAM DISTRICT.**
- 5. SHAHUSSAIN AGED 26 YEARS
S/O. MUHAMMED MUSHIM, HOUSE NO. 104, VIKAS NAGAR
RASSAL COTTAGE, PATTATHANAM CHERRY
VADAKKEVILA VILLAGE, KOLLAM DISTRICT.**

**BY ADVS.SRI.K.SIJU
SMT.S.SEETHA**

RESPONDENT(S)/DE-FACTO COMPLAINANT & STATE:

- 1. STATE OF KERALA
REPRESENTED BY SUB INSPECTOR OF POLICE
KOLLAM EAST POLICE STATION THROUGH PUBLIC PROSECUTOR
HIGH COURT OF KERALA.**

**2. AKRAMUDHEEN, AGED 30 YEARS
S/O. UI HASSAN, ARA NAGAR - 143
UDAYAMARTHANDAPURAM CHERRY, MUNDAKKAL VILLAGE
KOLLAM DISTRICT FROM MURDHU, MADHUMANI DISTRICT
BIHAR STATE.**

**R2 BY ADV. SRI.A.MUHAMMED RAFFI
R1 BY ADV. PUBLIC PROSECUTOR SMT. S. HYMA**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 16-01-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 6864 of 2014 ()

APPENDIX

PETITIONER(S)' EXHIBITS

A1 - THE COPY OF THE FIR WITH FIS IN CRIME NO. 1363/14 OF KOLLAM EAST POLICE STATION.

A2 - THE COPY OF FINAL REPORT SUBMITTED IN CRIME NO. 1363/14 OF KOLLAM EAST POLICE STATION.

A3 - THE AFFIDAVIT SWORN BY THE 2ND RESPONDENT REGARDING COMPROMISE

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

PA TO JUDGE
sab

P.UBAID, J.

Crl. M.C No. 6864 of 2014

Dated this the 16th day of January, 2015.

ORDER

The petitioners herein are the accused Nos. 1 to 5 in Crime No. 1363/2014 of the Kollam East Police Station, now pending before the Judicial First Class Magistrate Court II, Kollam as C.P No.133/2014. 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, 323, 324, 326, 308 r/w 149 of IPC, on the complaint of one Akramudheen, who is the second 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 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 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, and I am satisfied that the parties are now on quite cordial terms. 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. I find that Section 308 IPC was in fact incorporated in this case by the police on the basis of a purely hypothetical statement. This is only a case of assault involving the offences under Sections 324 and 326 IPC, and the parties have really come to terms.

In the result, this petition is allowed. The prosecution against the petitioners herein in C.P No.133/2014 of the Judicial First Class Magistrate's Court-II, Kollam 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.

P.UBAID,
JUDGE