

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 29TH DAY OF DECEMBER 2015/8TH POUSHA, 1937

Crl.MC.No. 8101 of 2015 ()

**CP 49/2015 of JUDICIAL FIRST CLASS MAGISTRATE COURT-II, PERINTHALMANNA
CRIME NO. 550/2015 OF WANDOOOR POLICE STATION , MALAPPURAM DISTRICT**
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PETITIONER/ACCUSED:

**E.P.UMMER, AGED 53 YEARS
S/O.ABU, ELATTUPARAMBIL HOUSE, MANALIMMALPARAMBU
WANDOOOR, MALAPPURAM DISTRICT-679 328.**

BY ADV. SRI.P.SAMSUDIN

RESPONDENTS/STATE AND DEFACTO COMPLAINANT:

**1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGHC COURT OF KERALA, ERNAKULAM, PIN-682 031.
(IN CRIME NO.550/2015 OF WANDOOOR POLICE STATION IN MALAPPURAM
DISTRICT)**

**2. HUSSAIN KOYA THANGAL, AGED 44 YEARS
S/O.CHERUKOYA THANGAL, VALIYAPADAKATH HOUSE
KUTTIYIL, WANDOOOR, MALAPPURAM DISTRICT-679 328.**

**R2 BY ADV. SRI.K.C.ANTONY MATHEW
R1 BY PUBLIC PROSECUTOR SRI. GITHESH R.**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 29-12-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

**ANNEXURE-A1. A CERTIFIED COPY OF THE FIR IN FINAL REPORT IN CRIME
NO.550/2015 OF WANDOOR POLICE STATION.**

ANNEXURE-A2. TRUE COPY OF THE WOUND CERTIFICATE

ANNEXURE-A3. THE AFFIDAVIT SWORN BY THE 2ND RESPONDENT DATED 24/8/2015.

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY //

P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.8101 of 2015

Dated this the 29th day of December, 2015

O R D E R

The petitioner herein is the accused in C.P.No.49/2015 of the Judicial First Class Magistrate Court-II, Perinthalmanna. He seeks orders quashing the prosecution on the ground of amicable settlement of the whole dispute between him and the de facto complainant. Crime in this case was registered under Sections 323, 324, 506(i) and 308 IPC, on the complaint of one Hussan Koya Thangal, who 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 now. On a perusal of the materials, I find that this is only a simple case of assault and that Section 308 IPC was incorporated in the proceeding by the police on the basis of a purely hypothetical statement. Any way, the parties have come to terms amicably, and the whole dispute stands resolved.

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 petitioner herein in C.P.No.49/2015 of the Judicial First Class Magistrate Court-II, Perinthalmanna will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioner will stand released from prosecution, and the bail bond, if any, executed by him will stand discharged.

Sd/-
P. UBAID, JUDGE

sd

// True Copy //

P.A. to Judge