

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

MONDAY, THE 17TH DAY OF AUGUST 2015/26TH SRAVANA, 1937

CrI.MC.No. 7059 of 2014 ()

**CC.NO. 1216/2014 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-II, HOSDURG
CRIME NO. 155/2008 OF CHITTARIKKAL POLICE STATION, KASARGOD**

PETITIONER/ACCUSED :

**SHIBU N.K.,
AGED 32 YEARS, S/O.GOPALAN,
RESIDING AT PRAPOYIL, P.O.CHITTARIKKAL
HOSDURG TALUK, KASARAGOD DISTRICT.**

**BY ADVS.SRI.T.K.VIPINDAS
SRI.K.V.SREE VINAYAKAN
SRI.K.M.HASHIR
SRI.K.M.MUHAMMED HUSSAIN**

RESPONDENTS/STATE :

**1. THE STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA
ERNAKULAM
REPRESENTING STATION HOUSE OFFICER
CHITTARIKKAL POLICE STATION - 671 128.**

**2. MATHEW SEBASTIAN
AGED 42 YEARS, S/O.SEBASTIAN,
NAYIKKAM PARAMBIL HOUSE
RESIDING AT PALAVAYAL, PALAVAYAL VILLAGE
HOSDURG TALUK, KASARAGOD DISTRICT - 671 121.**

**R1 BY PUBLIC PROSECUTOR SMT. P. MAYA
R2 BY ADV. SRI.A.L.GEORGE**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 17-08-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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Crl.MC.No. 7059 of 2014 ()

APPENDIX

PETITIONERS' ANNEXURES :

**ANNEXURE A1 : COPY OF THE FIR IN CRIME NO. 155/2008 OF CHITTARIKKAL
POLICE STATION.**

**ANNEXURE A2 COPY OF THE AFFIDAVIT SWORN BY THE 2ND RESPONDENT
DATED 28.11.2014.**

**ANNEXURE A3 COPY OF THE JUDGMENT IN CC NO. 1314/2008 DATED
19-7-2011 BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE
COURT-II, HOSDURG.**

RESPONDENT'S ANNEXURES : NIL

//TRUE COPY//

P.A. TO JUDGE

Mn

ALEXANDER THOMAS, J.

Crl.M.C.No.7059 Of 2014

Dated this the 17th day of August, 2015.

ORDER

The petitioner herein is the original 8th accused in the impugned Anx-A1 FIR filed in Crime No.155/2008 of Chittarikkal Police Station, registered for offences punishable under Secs.143, 147, 148, 341 & 324 & r/w 149 IPC. The prosecution allegation is that there was a fight between the INTUC and CITU union people with regard to labour dispute in which the defacto complainant suffered minor injuries. There were altogether 9 accused in the crime. All the accused, except the petitioner, faced trial before the court below in C.C.No.1314/2008 on the file of the Judicial First Class Magistrate Court-II, Hosdurg. The said calendar case was settled out of court and all the accused who faced the trial were acquitted by the Judicial First Class Magistrate Court-II, Hosdurg. Since the petitioner could not appear and participate the trial, the case against him was re-filed and converted as L.P.C.No.108/2012. Now, the case is numbered as C.C.No.1216/2014 on the file of the above said court. It is the specific case of the petitioner

Crl.M.C.No.7059 Of 2014

that the substratum of the prosecution case has been shattered by the acquittal of the co-accused by the court below. More over the matter has been settled between the petitioner and the 2nd respondent (defacto complainant) and the 2nd respondent has sworn to Anx-A2 affidavit stating the above stated facts and also stated that he has no objection in quashing the impugned criminal proceedings pending against the petitioner. It is in the light of these aspects that the prayer for quashment of the impugned criminal proceedings has been made by the petitioner in the instant Crl.M.C.

2. On a perusal of the materials on record, the court below held in Anx-A3 judgment that even though the accused were named in the FI statement, PW1 deposed that it was given on suspicion and that the matter is now settled and in the circumstances, examination of the remaining witnesses were given up by the learned Assistant Public Prosecutor and as there is no incriminating evidence against the accused, questioning under Sec.313(1)(b) Cr.P.C was dispensed with and accordingly acquitted the accused. In a catena of decisions, the Apex Court has held that, in appropriate cases involving even non-compoundable offences, the High Court can quash prosecution by

CrI.M.C.No.7059 Of 2014

exercise of the powers under Sec.482 of the Cr.P.C., if the parties have really settled the whole dispute or if the continuance of the prosecution will not serve any purpose. Here, this Court finds a real case of settlement between the parties and it is also found that continuance of the 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. On a perusal of the petition and on a close scrutiny of the investigation materials on record and the affidavit of settlement and taking into account the attendant facts and circumstances of this case, this Court is of the considered opinion that the legal principles laid down by the Apex Court in the cases as in *Gian Singh v. State of Punjab* reported in 2013 (1) SCC (Cri) 160 = (2012) 10 SCC 303 and *Narinder Singh and others v. State of Punjab and anr.* reported in (2014) 6 SCC 466, more particularly paragraph 29 thereof, could be applied in this case to consider the prayer for quashment.

3. In this view of the matter, it is ordered in the interest of justice that the impugned Anx-A1 FIR in Crime No.155/2008 of Chittarikkal Police Station, which is now pending as C.C.No.1216/2014

Crl.M.C.No.7059 Of 2014

on the file of the Judicial First Class Magistrate Court-II, Hosdurg, and all further proceedings arising therefrom pending against the petitioner herein stand quashed under Sec.482 of the Code of Criminal Procedure.

With these observations and directions, this Crl.M.C stands disposed of.

ALEXANDER THOMAS,
Judge.

bkn/-