

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 5TH DAY OF FEBRUARY 2015/16TH MAGHA, 1936

Crl.MC.No. 7165 of 2014 ()

AGAINST THE ORDER/JUDGMENT IN CP 1/2014 of JUDL.M.F.C.-I, ERNAKULAM
CRIME NO. 699/2006 OF ERNAKULAM NORTH POLICE STATION , ERNAKULAM

PETITIONER(S)/ACCUSED:

1. SHAMEEM AGED 40 YEARS
S/O.SAINULABDEEN, PARAPARAMBATH HOUSE, PANANGAD P.O.
KUMBALAM VILLAGE, KANAYANNUR TALUK
ERNAKULAM DISTRICT.
2. MANOJ AGED 38 YEARS
S/O.GOPINATHA, KADAVILPARAMBIL, AROOR P.O.
AROOR VILLAGE, CHERTHALA TALUK, ALAPPUZHA DISTRICT.
3. SAJAN AGED 31 YEARS
S/O.THOMAS, VELUTHARA, AROORKUTTY P.O.
AROORKUTTY VILLAGE, CHERTHALA TALUK
ALAPPUZHA DISTRICT.

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT(S)/COMPLAINANT:

1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HONOURABLE HIGH COURT OF KERALA AT ERNAKULAM REPRESENTED
BY SUB INSPECTOR OF POLICE
KALAMASSERY POLICE STATION.
2. DAN SHOM, AGED 35 YEARS
S/O.GEORGE ZACHARIYA, MEENATHETHIL HOUSE, ARAKKUPARABU
CHEMBU VILLAGE, KOTTAYAM DISTRICT.

BY PUBLIC PROSECUTOR SMT.P.MAYA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 05-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 7165 of 2014

APPENDIX

PETITIONERS EXHIBITS:

ANNEXURE-I: TRUE COPY OF THE FIRST INFORMATION REPORT IN CRIME NO.699 OF 2009 OF ERNAKULAM TOWN NORTH POLICE STATION

ANNEXURE-2 TRUE COPY OF THE FINAL REPORT IN CRIME NO.699 OF 2006 OF ERNAKULAM TOWN NORTH POLICE STATION

ANNEXURE - 3: ORIGINAL OF THE AFFIDAVIT DATED 20.11.2014 SWEAR BY THE DE FACTO COMPLAINANT (CW1)

RESPONDENTS EXHIBITS:

/TRUE COPY/

P.S TO JUDGE

P.UBAID, J.

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**Crl.M.C No.7165 of 2014**  
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Dated this the 5th February, 2015

O R D E R

The petitioners herein are the three accused in C.P. No.1/2014 of the Judicial First Class Magistrate's Court-I, Ernakulam. 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 341 and 308 read with 34 of Indian Penal Code on the complaint of one Dan Shom, 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.

2. 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 the prosecution 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. On a perusal of the case records, I find that Section 308 of Indian Penal Code was incorporated in the F.I.R by the police on the basis of some purely a hypothetical statement.

In the result, this petition is allowed. The prosecution against the petitioners herein in C.P. No.1 of 2014 of the Judicial First Class Magistrate's Court-I, Ernakulam 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.

Sd/-
P.UBAID
JUDGE

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/True copy/

P.S to Judge