

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 12TH DAY OF JANUARY 2015/22ND POUSHA, 1936

Cr1.MC.No. 7219 of 2014

IN CP 69/2013 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT,
NILAMBUR
CRIME NO. 892/2012 OF NILAMBUR POLICE STATION, MALAPPURAM

PETITIONERS/ACCUSED:

1. MOHAMMED SHAFI, AGED 24 YEARS,
S/O ABDULLA, MALAYIL HOUSE, EENADI,
NALLAMTHANNI PO-679330, NILAMBUR VILLAGE,
MALAPPURAM DISTRICT.
2. FAISAL BABU, AGED 27 YEARS,
S/O ABOOBAKKER, BHAGAVATHI AALUGAL HOUSE, EENADI,
NALLAMTHANNI PO-679330, NILAMBUR VILLAGE
MALAPPURAM DISTRICT.
3. NAUSHAD, AGED 32 YEARS,
S/O ABOOBAKKER, BHAGAVATHI AALUGAL HOUSE, EENADI
NALLAMTHANNI PO-679330, NILAMBUR VILLAGE
MALAPPURAM DISTRICT.

BY ADV. SRI.P.SAMSUDIN

RESPONDENTS/DE-FACTO COMPLAINANT AND STATE:

1. ANOOP, AGED 30 YEARS,
S/O VASUDEVAN, ANOOP BHAVAN, NALLAMTHANNI P.O,
KARULAYI VILLAGE, NILAMBUR TALUK, MALAPPURAM DISTRICT,
PIN:676 525.
2. VASUDEVAN, AGED 54 YEARS,
S/O P.K KRISHNAN NAIR, ANOOP BHAVAN, NALLAMTHANNI P.O,
KARULAYI VILLAGE, NILAMBUR TALUK, MALAPPURAM DISTRICT
PIN:676 525.
3. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682031.

R1,2 BY ADV. SRI.K.C.ANTONY MATHEW
R3 BY PUBLIC PROSECUTOR SMT.P.MAYA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 12-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 7219 of 2014

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE A1: COPY OF THE FIR AND CHARGE SHEET IN CRIME
NO.892/20132 OF NILAMBUR POLICE STATION.

ANNEXURE A2: COPY OF THE AFFIDAVIT DATED 12.12.2014 SWORN IN BY
THE 1ST RESPONDENT.

ANNEXURE A3: COPY OF THE AFFIDAVIT DATED 12.12.2014 SWORN IN BY
THE 2ND RESPONDENT.

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.7219 of 2014

Dated this the 12th day of January, 2015

O R D E R

A prosecution under Sections 341, 324 and 307 r/w 34 of the Indian Penal Code is sought to be quashed under Section 482 of the Code of Criminal Procedure on the ground of amicable settlement made by the parties out of court on the intervention of persons acceptable to both sides. The 2nd respondent herein is the first informant on whose complaint the crime was registered by the police, and the first respondent is his son, who sustained injuries in the alleged incident of assault. The petitioners are the three accused in the said crime, which is now pending as C.P No.69/2013 before the Judicial First Class Magistrate Court, Nilambur. The respondents 1 and 2 have filed affidavit to the effect that the whole dispute stands settled amicably, and that they have no grievance or complaint now. It is in fact really doubtful whether the allegations in the case will come under Section 307 of the Indian Penal Code as a case of attempted murder. Of course it is true that the first respondent

had sustained fracture of his frontal bone in the alleged incident of assault. That by itself, will not attract the offence under Section 307 of the Indian Penal Code. For such a prosecution on the allegation of attempted murder something strong and definite is required, but such strong materials are not there. Anyway, the dispute now stands amicably settled, and the parties have come to terms. It is submitted that the parties are now on quite cordial terms, and the whole dispute between them which gave rise to the alleged incident of assault, stands resolved forever.

2. In so many decisions the Hon'ble Supreme Court has held that even in cases involving non-compoundable offences like 307 IPC, the High Court can quash the prosecution; be it at the crime stage, or at the trial stage, or even at the appellate or revisional stage, if the parties have really settled the whole dispute, and continuance of prosecution will not serve any purpose, or will otherwise cause harm and hardship to parties. Here I find a case of true and genuine settlement between the parties, and now they are on quite cordial terms. In such a situation, continuance of the prosecution will not serve any purpose, and it may even cause harm and embarrassment to

both the parties. In such a situation, the prosecution can be quashed.

In the result, this Criminal Miscellaneous Case is allowed. The prosecution against the petitioners herein in C.C No.892/2012 of the Nilambur Police Station, now pending as committal proceeding in C.P No.69/2013 before the Judicial First Class Magistrate Court, Nilambur, 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**

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