

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 22ND DAY OF JANUARY 2015/2ND MAGHA, 1936

Crl.MC.No. 7273 of 2014 ()

**SC 339/2013 of SUB COURT, QUILANDY
CRIME NO. 295/2011 OF MEPPAYUR POLICE STATION , KOZHIKODE DISTRICT**
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PETITIONERS/ACCUSED:

- 1. ABDUL AAL, AGED 23 YEARS
S/O AVARAN, VADAKKETHADATHIL HOUSE
MEPPAYUR AMSOM
KEEZHPAYUR DESOM, KOZHIKODE.**
- 2. YASIN, AGED 26 YEARS
S/O HASSAN HAJI, AYYANGATTU HOUSE
MEPPAYUR AMSOM
KEEZHPAYUR DESOM, KOZHIKODE.**
- 3. MAJEED, AGED 35 YEARS
S/O ASSAINAR, KIZHAKKEKUTTIYIL HOUSE
MEPPAYUR AMSOM
KEEZHPAYUR DESOM, KOZHIKODE.**
- 4. AFSAL, AGED 25 YEARS
S/O AVARAN HAJI, KANIYAMKANDY HOUSE
MEPPAYUR AMSOM
KEEZHPAYUR DESOM, KOZHIKODE.**

BY ADV. SMT.K.DEEPA (PAYYANUR)

RESPONDENTS:

- 1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.**
- 2. RAJEEVAN, AGED 44 YEARS
S/O. SHANKARAN, MEETHALEMANGATTU HOUSE
KEEZHPAYUR P.O., KOZHIKODE**
- 3. RAGESH, AGED 29 YEARS, S/O. BALAN
VALLIL HOUSE, KEEZHPAYUR P.O., KOZHIKODE**

**R2 & R3 BY ADV. SMT.P.S.ARUNA
R1 BY Sr. PUBLIC PROSECUTOR SMT. SAREENA GEORGE P.**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 22-01-2015
ALONG WITH Crl.M.C.No.7279/2014 AND CONN. CASES, THE COURT ON THE SAME
DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONERS' EXHIBITS

**ANNEXURE I: CERTIFIED COPY OF THE FIR IN CRIME NO.295/2011 OF THE
MEPPAYUR POLICE STATION, KOZHIKODE.**

**ANNEXURE II: CERTIFIED COPY OF THE FINAL REPORT OF CRIME NO.295/2011 OF
THE MEPPAYUR POLICE STATION, KOZHIKODE.**

ANNEXURE III: AFFIDAVIT FILED BY THE 2ND RESPONDENT.

ANNEXURE IV: AFFIDAVIT FILED BY THE 3RD RESPONDENT.

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY // P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.Nos.7273, 7279, 7280 & 7281 of 2014

Dated this the 22nd day of January, 2015

O R D E R

Different accused in Crime No.295/2011 of the Meppayur Police Station now pending before the learned Assistant Sessions Judge, Koyilandy, as different cases, seek orders quashing the said prosecution, on the ground of amicable settlement of dispute by the parties out of court. The case against some are now in committal proceedings before the learned Judicial First Class Magistrate, Payyoli. The petitioners in Crl.M.C.No.7273/2014 are the accused Nos.1,4,6 and 8 in the said case, the petitioners in Crl.M.C.No.7279/2014 are the accused Nos.2 and 3. the petitioners in Crl.M.C.No.7280/2014 is the accused No.7, and the petitioners in Crl.M.C.No.7281/2014 is the accused No.5 in the case. Crime in these cases was registered on the complaint of one Rajeevan, under Sections 143,147,148,341,324,326 and 307 read with 149 IPC that the petitioners assaulted him and his friend, Ragesh and inflicted simple and grievous injuries with weapons on their body, and they made attempts on the life of Ragesh. The first informant, Rajeevan is the 2nd respondent in

these proceedings and the other victim on whose life the petitioners allegedly made attempt, is the 3rd respondent in these proceedings. They have filed affidavit to the effect that the whole dispute stands amicably settled out of court, and they have no grievance or complaint now. Of course, it is really doubtful whether the allegations in this case will constitute the offences punishable under Section 307 IPC. Though there is an allegation of strangulation with rope, the doctor who examined Ragesh could not find any corresponding injury on his neck. However, a simple fracture of the right thumb was detected, justifying action under Section 326 IPC. Any way, the whole dispute now stands amicably settled. I am well satisfied that there is a real and genuine settlement, and that the parties are now on quite cordial terms. In such a situation of settlement, continuance of prosecution will not serve any purpose, other than wasting the precious time of the court. No doubt, nobody will support prosecution if the case goes to trial. Continuance of prosecution will also cause harm and hardship to both the parties in the present circumstance.

2. In so many decisions, the Honourable Supreme Court

has held that even in cases involving non-compoundable offences like the offence under Section 307 IPC , the High Court can quash the prosecution, if the parties have come to terms amicably and continuance of the prosecution will not serve any purpose. Here, I find that the prosecution can be quashed under Section 482 Cr.P.C., in the interest of both the parties.

In the result, all these petitions are allowed. The prosecution against these petitioners in S.C.Nos.339/2013 and 715/2013 of the learned Assistant Sessions Judge, Koyilandy, and in C.P.Nos.91/2014 and 26/2013 of the Judicial First Class Magistrate Court, Payyoli, will stand quashed under Section 482 Cr.P.C. Accordingly, the petitioners will stand released from prosecution. The bail bond, if any, executed by them will stand discharged.

Sd/-

P. UBAID, JUDGE

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