

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE P.UBAID**

**TUESDAY, THE 6TH DAY OF JANUARY 2015/16TH POUSHA, 19361**

**CrI.MC.No. 7276 of 2014 ()**  
-----

**SC.NO. 394/2014 OF PRINCIPAL ASSISTANT SESSIONS COURT, ERNAKULAM  
CRIME NO. 700/2006 OF ERNAKULAM TOWN NORTH POLICE STATION, ERNAKULAM**  
-----

**PETITIONERS/ACCUSED NO. 1 & 2 :**  
-----

**1. DANE SHOME, AGED 37 YEARS  
S/O. GEORGE, MEENATHETHIL HOUSE, KAATTIKUNNU  
CHEMBU VILLAGE, PIN: 686615, KOTTAYAM DISTRICT.**

**2. TINU, AGED 30 YEARS  
S/O. MAANI, AKKARA VEETIL, EZHUPUNNA VILLAGE  
PIN:688 548, ALAPPUZHA DISTRICT.**

**BY ADV. SRI.T.P. SANTHOSH KUMAR**

**RESPONDENTS/STATE AND CW1 :**  
-----

**1. STATE OF KERALA  
REPRESENTED BY THE SUB INSPECTOR OF POLICE  
ERNAKULAM TOWN NORTH POLICE STATION  
REPRESENTED BY THE PUBLIC PROSECUTOR  
HIGH COURT OF KERALA, ERNAKULAM-682031.**

**2. SHEMIM, AGED 39 YEARS  
S/O. SAINUDHEEN, PARAPRAMBATH HOUSE, MADAVANA  
PANANGAD DESOM, KUMBALAM VILLAGE, PIN:682 506  
ERNAKULAM DISTRICT.**

**R1 BY PUBLIC PROSECUTOR SMT. S. HYMA**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION  
ON 06-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

**Mn**

**...2/-**

**Crl.MC.No. 7276 of 2014 ()**  
-----

**APPENDIX**

**PETITIONERS' ANNEXURES :**  
-----

**ANNEXURE A1:        TRUE COPY OF THE CHARGE SHEET IN SC NO.394/2014  
                             PENDING ON THE FILE OF PRINCIPAL ASSISTANT SESSIONS  
                             COURT AT ERNAKULAM ARISING OUT OF CRIME NO.700/2006  
                             OF ERNAKULAM TOWN NORTH POLICE STATION.**

**ANNEXURE A2:        AFFIDAVIT SWORN BY THE 2ND RESPONDENT.**

**RESPONDENT(S)' EXHIBITS :        NIL**  
-----

**//TRUE COPY//**

**P.S. TO JUDGE**

**Mn**

**P.UBAID, J.**

-----  
**Cri M.C.No. 7276 OF 2014**  
-----

Dated this the 6<sup>th</sup> day of January, 2015

**O R D E R**

The petitioners herein are the two accused in S.C. No. 394/2014 of the Court of Sessions, Ernakulam, now pending before the learned Principal Assistant Sessions Judge, Ernakulam. The incident of assault alleged in this case happened in connection with some dispute regarding the running time of two private buses. The Ernakulam Town North Police Registered the Crime under Sections 341 & 308 read with Section 34 of IPC on the complaint of one Shemim who sustained injuries in the alleged incident. He is the second respondent herein. The petitioners now seek orders quashing the prosecution on the ground that they and the said Shemim have come to terms amicably out of Court, and the whole dispute, which led to the unfortunate incident stands, resolved for ever. The de facto complainant Shemim has filed affidavit to the effect that the whole dispute stands resolved and he has

no complaint or grievance. On a perusal of the prosecution records including the wound certificate, I find that there is absolutely nothing to attract Section 308 of IPC and that the said section was incorporated on the basis of a purely hypothetical statement. Anyway, the parties have come to terms amicably and the de facto complainant has no grievance or complaint now. In such a situation, continuance of the prosecution will not serve any purpose other than wasting the precise time of the trial court, because there is no material to support the prosecution, if the case goes to trial.

In the result, the Crl.M.C. is allowed. The prosecution against the petitioners in S.C. No.394/2014 of the Court of Sessions , Ernakulam, will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioners will stand released from the prosecution and the bail bond , if any, executed by them will stand discharged.

**Sd/-**

**P.UBAID, Judge.**

Dpk

/True copy/ PS to Judge.

