

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

Crl.MC.No. 7422 of 2014 ()

**SC.NO.1017/2014 OF ADDL.SESIONS COURT(MARADU CASES), KOZHIKODE
CRIME NO. 394/2014 OF KUTTIADY POLICE STATION , KOZHIKODE DISTRICT**

PETITIONER(S)/ACCUSED 1 AND 3 IN CRIME NO.394/14:

- 1. SALIH, S/O.ABDULLA,AGED 33 YEARS,
PADINHARE PARAMBATH HOUSE, P.O.MULLAMBATH,
VATAKARA TALUK.**
- 2. MAJAS,S/O.MOIDU, AGED 23 YEARS,
CHARADI PARAMBATH HOUSE, MULLAMBATH,
VATAKARA TALUK.**

BY ADV. SRI.ZUBAIR PULIKKOOL

RESPONDENT(S)/COMPLAINANTS:

- 1. T.K.MAMMU, S/O.ANDRU HAJI, AGED 60 YEARS,
CHARADI PARAMBATH HOUSE,MULLAMBATH.P.O.,
VATAKARA TALUK, KOZHIKODE DISTRICT, PIN-673 101.**
- 2. STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM, PIN-682 031.**

**R1 BY ADVS. SMT.P.A.ANEESHA
SMT.SUMA A.GAFOOR
R2 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:**

sts

Crl.MC.No. 7422 of 2014 ()

APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEX I- TRUE COPY OF THE CHARGE SHEET IN CRIME NO.394/14 KUTTIADY
POLICE STATION.**

**ANNEX II- TRUE COPY OF THE ORDER OF LOK ADALATH CASE NO.3983/14
DATED 06.12.14 AFFIDAVIT OF 1ST RESPONDENT.**

ANNEX III- ORIGINAL COPY OF THE SWORN AFFIDAVIT OF 1ST RESPONDENT.

RESPONDENT(S)' ANNEXURES:

NIL

/TRUE COPY/

P.S.TO.JUDGE

sts

P.UBAID, J.

Crl.M.C.No. 7422 OF 2014

Dated this the 6th day of January, 2015

O R D E R

The petitioners herein are the accused Nos. 1 & 3 in S.C. No.1017/2014 of the Court of Sessions, Kozhikode now pending before the learned Special Additional Sessions Judge, Kozhikode (Marad Cases). The 2nd accused in the crime is a juvenile, and his case is now before the Juvenile Justice Board. Crime in this case happened to be registered in connection with a scuffle that occurred between two groups. The crime was registered under Sections 341,323,324,294(b), 506 (ii), & 308 read with Section 34 of IPC on the complaint made by one T.K.Mammu who sustained injuries in the incident. On the complaint of the father of the first petitioner herein a counter case was also registered. Pending the two proceedings, the parties came to terms amicably out of court on the intervention of some persons of the locality, and thus settled the whole dispute. Accordingly, the counter case in crime No.

393/2014 (CC No.1188/14) of the Judicial First Class Magistrate Court, Nadapuram) stands closed on acquittal of the accused under Section 320(8) of the Cr.P.C. on composition. Now, the petitioners seek orders quashing the prosecution as against them in view of the amicable settlement made out of Court. The de facto complainant T.K.Mammu is the first respondent herein. He has filed affidavit to the effect that he has settled the dispute with the accused, and he has no complaint or grievance. In fact, on a perusal of the case records, I find nothing to attract Section 308 of IPC. The said section was incorporated by the police on the basis of some hypothetical statement. Any way, the parties have settled the whole dispute and the counter case stands already closed on composition. In such a situation, this prosecution also can be quashed, because continuance of the prosecution will not serve any purpose other than wasting the precious time of the court.

In the result, the Crl.M.C. is allowed. The prosecution against the petitioner in S.C. No.1017/2014 of the Additional Sessions Court (Marad Cases) Kozhikode 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.

dpk

/True copy/ PS to Judge.