

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 30TH DAY OF JUNE 2015/9TH ASHADHA, 1937

Crl.MC.No. 3833 of 2015

**CP. 88/2015 OF JUDICIAL FIRST CLASS MAGISTRATE COURT -II, HOSDRUG.
CRIME NO. 965/2014 OF NEELESWARAM POLICE STATION, KASARAGOD DISTRICT.**

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PETITIONER(S)/ACCUSED NO'S. 1 TO 4:

1. MOHAMMED RASHID, AGED 20 YEARS,
S/O.MUHAMMED RAFAEQUE, DAYA MAHAL,
KOTTAPURAM, NEELESWARAM VILLAGE,
HOSDURG TALUK, KASARAGOD DISTRICT.
2. SAVAD.P, AGED 21 YEARS, S/O.A.C.SAINUDEEN,
'THAYOOB MANZIL', NEAR EDATHARA MOSQUE,
KOTTAPURAM, NEELESWARAM VILLAGE,
HOSDURG TALUK, KASARAGOD DISTRICT.
3. NIYAS.P, AGED 21 YEARS, S/O.HARIS V.M.,
'HABEEB MANSIL', NEAR EDATHARA MOSQUE,
KOTTAPURAM, NEELESWARAM VILLAGE,
HOSDURG TALUK, KASARAGOD DISTRICT.
4. KUNHABDULLA E., AGED 62 YEARS,
S/O. LATE MAMMU, 'AYISHAS', KOTTAPURAM,
NEELESWARAM VILLAGE, HOSDURG TALUK,
KASARAGOD DISTRICT.

BY ADV. SRI.JAWAHAR JOSE

RESPONDENT(S)/STATE, DEFACTO-COMPLAINANT & INJURED:

1. THE STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.
2. P.P.SHAFI, AGED 48 YEARS, S/O.ABOOBACKER HAJEE,
'UGRANI HOUSE', KOTTAPURAM, NEELESWARAM VILLAGE,
HOSDURG TALUK, KASARAGOD DISTRICT.

**R1 BY PUBLIC PROSECUTOR SRI.N.SURESH
R2 BY ADV. SRI.V.VINAY MENON**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 30-06-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' ANNEXURES:

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| ANNEXURE-I. | CERTIFIED COPY OF THE FIR TOGETHER WITH FIRST INFORMATION STATEMENT OF THE DEFACTO-COMPLAINANT. |
| ANNEXURE-II. | CERTIFIED COPY OF THE CHARGE SHEET. |
| ANNEXURE-III. | CERTIFIED COPY OF THE WOUND CERTIFICATE. |
| ANNEXURE-IV. | COPY OF THE AFFIDAVIT SWEARED BY THE 2ND RESPONDENT EVIDENCING SETTLEMENT. |

RESPONDENTS' ANNEXURES: **NIL.**

//TRUE COPY//

P.S. TO JUDGE

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ALEXANDER THOMAS, J.

Crl.M.C.No.3833 Of 2015

Dated this the 30th day of June, 2015.

ORDER

The petitioners are accused Nos.1 to 4 in Anx-II final report/charge sheet filed in Crime No.965/2014 of Neeleswaram Police Station registered for offences alleged under Secs.324, 326, 308 r/w 34 IPC, which is now pending as C.P.No.88/2015 on the file of the Judicial First Class Magistrate Court-II, Hosdurg. It is submitted that the matter has been settled between the parties and that the 2nd respondent (defacto complainant) has sworn to Anx-IV affidavit wherein he has stated that he has no objection in the quashment of the impugned criminal proceedings pending against the petitioners. It is in the light of these aspects that the petitioners have filed this Crl.M.C seeking the prayer for quashment of the impugned criminal proceedings.

2. In a catena of decisions, the Apex Court has held that, in appropriate cases involving even non-compoundable offences, the High Court can quash prosecution by exercise of the powers

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under Sec.482 of the Cr.P.C., if the parties have really settled the whole dispute or if the continuance of the prosecution will not serve any purpose. Here, this Court finds a real case of settlement between the parties and it is also found that continuance of the prosecution in such a situation will not serve any purpose other than wasting the precious time of the court, when the case ultimately comes before the court. On a perusal of the petition and on a close scrutiny of the investigation materials on record and the affidavit of settlement and taking into account the attendant facts and circumstances of this case, this Court is of the considered opinion that the legal principles laid down by the Apex Court in the cases as in *Gian Singh v. State of Punjab* reported in 2013 (1) SCC (Cri) 160 = (2012) 10 SCC 303 and *Narinder Singh and others v. State of Punjab and anr.* reported in (2014) 6 SCC 466, more particularly paragraph 29 thereof, could be applied in this case to consider the prayer for quashment.

3. Accordingly, it is ordered in the interest of justice that
Anx-II final report/charge sheet in Crime No.965/2014 of

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Neeleswaram Police Station, which is now pending as C.P.No.88/2015 on the file of the Judicial First Class Magistrate Court-II, Hosdurg and all further proceedings arising therefrom pending against the petitioners herein stand quashed under Sec.482 of the Code of Criminal Procedure.

With these observations and directions, this Crl.M.C stands finally disposed of.

ALEXANDER THOMAS,
Judge.

bkn/-