

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.S. DIAS

FRIDAY, THE 24TH DAY OF APRIL 2020/4TH VAISAKHA , 1942

**Cri. M.C.TMP No. 2 of 2020**

(To quash Annexure A Charge Sheet cum Final Report in Crime No.379/2016 of Koduvally Police Station in Kozhikode District and the proceedings in S.C.No. 24 of 2020 on the files of the IVth Additional District & Sessions Court, Kozhikode)

**Petitioner/Accused No.4 in the crime:**

Muhammed Ajnas.K.K.,  
S/o.Abdul Razak, aged 24 years,  
Thazhekoodathankandy,  
Parannoor.P.O., Kozhikode, Pin-673 585.

By Adv. Mathew Kuriakose

**Respondents/State & Victims:**

1. State of Kerala,  
(Crime No.379/2016 of Koduvally Police Station),  
represented by the Public Prosecutor,  
High Court of Kerala, High Court.P.O., Ernakulam – 682 031.
2. Nidhin, aged 28 years,  
S/o.Purushothaman, Konnady House,  
Parannoor.P.O., Kozhikkode District, Pin-673 585.
3. Midhilesh, aged 29 years,  
S/o.Balan, Koodathankandy House,  
Parannoor.P.O., Kozhikkode District, Pin-673 585.
4. Sharafudheen, aged 35 years,  
S/o.Muhammed, Karakunnummel House,  
Parannoor.P.O., Kozhikkode District, Pin-673 585.

R1 – By Public Prosecutor

R2 to 4 – By Adv. Krishnakumar J. Adoor (K.428) (K-731/11)

BY Public Prosecutor

THIS CRL.MC HAVING BEEN FINALLY HEARD ON 24.04.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C.S. DIAS, J

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CRL.MC. NO.TMP 2 OF 2020

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DATED THIS THE 24<sup>th</sup> DAY OF APRIL, 2020

O R D E R

This is a petition filed under section 482 of the Cr.PC.

2. The petitioner is the 4<sup>th</sup> accused in crime No. 379/2016 of the Koduvally Police Station and the accused in SC No. 24 of 2020 of the Additional Sessions Court-IV, Kozhikode.

3. The petitioner and the other accused are alleged to have committed the offences punishable under Sections 143, 147, 148, 341, 323, 308, 506 r/w section 149 of the IPC. The prosecution allegation is that, on 16/07/2016, the petitioner, and the other accused, formed an unlawful assembly with deadly weapons and attacked respondents 2 to 4 with wooden reapers, and respondents 2 to 4 sustained injuries. Thus the petitioner and the other accused have committed the above offences.

4. Heard the learned counsel for the petitioner and the learned Public Prosecutor through video conferencing.

5. The learned counsel for the petitioner submitted that the subject matter in dispute between the petitioner and the respondents 2 to 4 has been settled out of Court. The learned counsel for the petitioner argued that, the petitioner was unable to participate in the trial, as he was employed abroad. Accordingly, the case as against him was split up and re-numbered as SC No. 24/2020 of the additional Sessions Court-IV, Kozhikode. All the other accused in this crime were acquitted by Annexure E Judgment dated 21/01/2020 passed in SC NO. 1339 of 2016. Now the split up case as against the petitioner is pending consideration. MC No. 1/2020 has been registered against the sureties of the petitioner, as the petitioner had gone abroad. The respondents 2 to 4 have filed Annexures B, C and D affidavits, respectively, before this Court, stating that all disputes between the parties have been settled. Hence Annexure A Charge Sheet cum Final Report, all further proceedings in SC No. 24/2020 and MC No. 1/2020 of the Additional Sessions Court-IV, Kozhikode may be quashed.

6. The learned Public Prosecutor, on instructions, submitted that the subject matter in dispute in the above case has been settled between the petitioner and the respondents 2 to 4. The Public Prosecutor has ascertained from the respondents 2 to 4 regarding the settlement and they have admitted the execution of Annexures B, C and D affidavits.

7. The learned counsel appearing for respondents 2 to 4 also submitted that the respondents 2 to 4 have no further grievance as against the petitioner, and he vouched the signatures respondents 2 to 4 on the affidavits, and that the respondents 2 to 4 have no objection in all further proceedings in Annexure A Charge Sheet cum Final Report and SC No. 24/2020 and MC No. 1/2020 being quashed.

8. The Hon'ble Supreme Court in **Gian Singh Vs. State of Punjab, [2012 (10) SCC 303]** has held that in appropriate cases, where the High Court is satisfied that an amicable settlement has been arrived at between the parties, criminal proceedings can be quashed. Similarly, a Full Bench of this Court in **Moosa Vs. Sub**

**Inspector of Police, [2006 (1) KLT 552]** has held that this Court can exercise its powers under section 482, and quash further proceedings against an accused, inter-alia, if the other co-accused have been acquitted.

9. Having regard to the facts and circumstances of the case, the submission made by the learned counsel for the petitioner, the learned Public Prosecutor and the learned counsel for the respondents 2 to 4 and after going through Annexures B, C and D affidavits and also in view of the law laid down by the Hon'ble Supreme Court in Gian Singh (supra) and the Full Bench and the law laid down by this Court in Moosa (supra), and also finding that there is no public interest involved in this case, I am satisfied that Annexure A charge sheet cum Final Report and all further proceedings in SC No. 24/2020 and MC No. 1/2020 of the Additional Sessions Court – IV, Kozhikode can be quashed in view of the settlement between the parties. No useful purpose would be served in continuing with the proceedings, as the chances of conviction is remote. It would only result in putting the defacto

complainant and the accused to unnecessary inconvenience and hardship. The settlement arrived at between the parties would only auger the interest of the community, and enable the parties to live in peace and harmony.

10. In the result, this CrI.MC. is allowed and the entire proceedings in Annexure A Charge sheet cum final report and all further proceedings in SC No. 24/2020 and MC No. 1/2020 of the Additional Sessions Court – IV, Kozhikode will stand quashed under Section 482 of the Cr.P.C.

This Criminal MC is allowed accordingly.

Nsd

**C.S. DIAS  
JUDGE**