

**Chandu Vs. Asif**

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**SooperKanoon Citation :** [sooperkanoon.com/1166732](http://sooperkanoon.com/1166732)

**Court :** Kerala

**Decided On :** Oct-30-2014

**Judge :** Honourable Mr. Justice P.Ubaid

**Appellant :** Chandu

**Respondent :** Asif

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE P.UBAID THURSDAY, THE 30TH DAY OF OCTOBER 2014 8TH KARTHIKA, 1936 CrI.MC.No. 4052 of 2014 ()  
----- CRIME NO. 812/2013 OF PAYANGADI POLICE STATION ,  
KANNUR PETITIONER(S)/ACCUSED NOS. 1 TO 5  
----- 1. CHANDU @ SAJIN KUMAR  
AGED 22 YEARS S/O.CHANDRAN, BEACH ROAD, PUTHIYANGADI  
KANNUR DISTRICT.

2. EDWIN JACKSON AGED 21 YEARS S/O.ELIAS, AGNUS VILLA, KOZHI BAZAR  
POST MADAYI, KANNUR DISTRICT.

3. DINOY AGED 22 YEARS S/O.DAVID, SREESTHA, POST PARIYARAM  
KANNUR DISTRICT.

4. ANIL JACOB AGED 33 YEARS S/O.GEORGE KOYYAN, NEAR RC CHURCH,  
POST MADAYI KANNUR DISTRICT.

5. SHYJU AGED 26 YEARS S/O. THIMOTHI, NEAR RC CHURCH, POST MADAYI KANNUR DISTRICT. BY ADV. SRI. S. U. NAZAR RESPONDENT(S)/INJURED & STATE: ----- 1. ASIF, AGED 21 YEARS S/O. ASHRAF, MOOSANMUKRI HOUSE, MADAYI MOTTAMBRAM, KANNUR DISTRICT.

2. AZHARUDDIN, AGED 20 YEARS S/O. HAMZA, KALATHIL HOUSE, POST MADAYI KANNUR DISTRICT.

3. SHABEER, AGED 19 YEARS S/O. SHOUKATHALI, PEEDIKAYILTHAYAL HOUSE, BEACH ROAD POST MADAYI, KANNUR DISTRICT.

4. STATE REPRESENTED BY THE PUBLIC PROSECUTOR HIGH COURT OF KERALA, ERNAKULAM - 682 031. R4 BY PUBLIC PROSECUTOR SMT. S. HYMA R1-R3 BY ADV. SRI. I. V. PRAMOD THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 30/10/2014, ALONG WITH CRL.M.C. 4042 OF 2014 THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Crl.MC.No. 4052 of 2014 ( ) ----- APPENDIX PETITIONER(S)' EXHIBITS ----- ANNEXURE-A1: A TRUE COPY OF THE FIR IN CRIME NO. 812/2013 DATED 30/12/2013 OF PAYANGADI POLICE ANNEXURE-A2: THE AFFIDAVIT SWORN BY 1ST RESPONDENT DATED 10/6/2014 ANNEXURE-A3: THE AFFIDAVIT SWORN BY 2ND RESPONDENT DATED 10/6/2014 ANNEXURE-A4: THE AFFIDAVIT SWORN BY 3RD RESPONDENT DATED 10/6/2014 RESPONDENT(S)' EXHIBITS ----- /TRUE COPY/ P.S TO JUDGE P.UBAID, J.

~~~~~ Crl.M.C Nos.4042 and 4052 of 2014 ~~~~~ Dated this the 30th October, 2014

## ORDER

The petitioners in these two proceedings seek orders under Section 482 of the Code of Criminal Procedure quashing the two prosecutions, which happened to be registered as case and its counter case in connection with an incident of assault and open fight made by two groups of persons. On the complaint of one Edwin Jackson that the petitioners in Crl.M.C4042 of 2014 assaulted him and his friends

and inflicted injuries on their body with weapon Crime No.811 of 2013 was registered in Payangadi Police Station under Sections 143, 147, 148, 341, 323, 324 and 308 of Indian Penal Code. Some among the petitioners herein also sustained injuries in the said incident. On the complaint made by one Asif, that the petitioners in Crl.M.C. 4052 of 2014, assaulted him and his friends and inflicted injuries on his body with weapon Crime No.812 of 2013 was also registered as counter case in the same police station under Sections 143, 147, 148, 341, 323, 324 and 308 of Crl.M.C No.4052 of 2014 2 Indian Penal Code. Now both sides seek orders under Section 482 of the Code of Criminal Procedure quashing the prosecution on the ground that they have come to amicable settlement out of court on the intervention of persons acceptable to both sides, and that continuance of proceedings will cause harm and hardship to both sides. Now, it is submitted that in Crime No.811 of 2013, the police has already submitted final report in court and the committal court has taken cognizance as C.P. 81 of 2014. Learned Public Prosecutor submits that investigation in the other crime is also over, but final report is yet to be submitted. As regards the settlement reported in court, the State has nothing to say. In Gian Singh v. State of Punjab [2012 (4) KLT108SC ] and in Narinder Singh & Others v. State of Punjab and another[ 2014 (2) KLJ252, the Hon'ble Supreme Court has held that even in cases involving non-compoundable offences, the High Court can act under Section 482 of Cr.P.C and quash prosecution, be it at the crime stage or at the trial stage , if the parties have really settled the whole dispute, or Crl.M.C No.4052 of 2014 3 continuance of criminal proceeding will not serve any purpose, or will otherwise cause harm and hardship to both the parties. Here I find a case where the parties have really settled the whole dispute, and have resolved all their disputes forever on the intervention of persons acceptable to both sides. The persons who sustained injuries on either side are respondents in these proceedings. They have filed affidavit to the effect that the whole dispute stands settled with the accused, and that they have no grievance or complaint. In both the cases, I find, on a perusal of the case records that Section 308 of Indian Penal Code was incorporated in the F.I.R by the police on the basis of a hypothetical statement. I find nothing definite to attract a prosecution under Section 308 of Indian Penal Code in these cases. Anyway, the whole dispute stands settled, and I am well satisfied that there is a real settlement

amicably. Applying the guidelines made by the Hon'ble Supreme Court, these two prosecutions can be closed. In the result, both the petitions are allowed. The prosecution against the petitioners in CrI.M.C No.4042 of CrI.M.C No.4052 of 2014 4 2014 in C.P.81 of 2014, and also the F.I.R and other proceedings as the against the petitioners in CrI.M.C No.4052 of 2014 in Crime No.812 of 2013 of Payangadi Police Station will stand quashed under Section 482 of the Code of Criminal Procedure, and the petitioners/accused will stand released from such proceedings. The bail bond, if any, executed by the petitioners will stand discharged. Sd/- P.UBAID JUDGE ma /True copy/ P.S to Judge

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