

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 14TH DAY OF JULY 2015/23RD ASHADHA, 1937

Cr1.MC.No. 617 of 2015

IN C.C NO.4899/2014 of JUDL. MAGISTRATE OF FIRST CLASS,
KOTHAMANGALAM

CRIME NO. 1558/2014 OF KOTHAMANGALAM POLICE STATION , ERNAKULAM

PETITIONER/ACCUSED:

1. RAJANEESH KUMAR E.N, AGED 34 YEARS,
S/O. NARAYANAN, EDAPADU HOUSE, CHERUVATTOOR
KOTHAMANGALAM TALUK.
2. ROJINI NARAYANAN, AGED 60 YEARS,
W/O NARAYANAN, EDAPADU HOUSE, CHERUVATTOOR,
KOTHAMANGALAM TALUK.
3. NARAYANAN, AGED 68 YEARS,
S/O ITTA, EDAPADU HOUSE, CHERUVATTOOR,
KOTHAMANGALAM TALUK.
4. SMITHA RANI, AGED 39 YEARS,
D/O. NARAYANAN, EDAPADU HOUSE, CHERUVATTOOR,
KOTHAMANGALAM TALUK.

BY ADVS.SRI.C.S.AJITH PRAKASH
SRI.FRANKLIN ARACKAL
SRI.C.S.YESUDAS

RESPONDENTS/COMPLAINANT:

1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
2. NEETHU BABU,
CHERUVELIPARAMBIL HOUSE, CHULLICKAL, FORT KOCHI.

R2 BY ADV. SRI.SHERRY J. THOMAS
R1 BY PUBLIC PROSECUTOR SMT.V.H.JASMINE

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 14-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE A1: COPY OF THE FINAL CHARGE IN C.C.NO.4899/2014 PENDING BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT, KOTHAMANGALAM.

ANNEXURE A2: COPY OF THE FIR IN CRIME NO.1558/2014 OF KOTHAMANGALAM POLICE STATION.

ANNEXURE A3: COPY OF THE STATEMENT RECORDED FROM THE DEFACTO COMPLAINANT.

ANNEXURE A4: COPY OF THE COMPLAINT FILED BY THE DEFACTO COMPLAINANT BEFORE THE JUDICIAL FIRST MAGISTRATECOURT II, KOCHI.

ANNEXURE A5: COPY OF THE ORDER DATED 4.7.2014 IN B.A.NO.5086/2014.

ANNEXURE A6: COPY OF THE FINAL ORDER IN B.A.NO.5086/2014.

ANNEXURE A7: COPY OF THE PETITION FILED BY THE DEFACTO COMPLAINANT UNDER SECTION 12 OF THE DOMESTIC VIOLENCE ACT.

ANNEXURE A8: COPY OF THE ORDER DATED 8.10.2014 IN CMP NO.2518/2014 IN M.C.NO.45/2014 BY THE JUDICIAL FIRST CLASS MAGISTRATE COURT II, KOCHI.

ANNEXURE A9: COPY OF THE DIVORCE O.P.NO.458/2014 PENDING BEFORE THE FAMILY COURT, MUVATTUPUZHA FILED BY THE IST PETITIONER.

ANNEXURE A10: COPY OF THE DIVORCE O.P.NO.1813/2014 PENDING BEFORE THE FAMILY COURT, ERNAKULAM FILED BY THE DEFACTO COMPLAINANT.

ANNEXURE 11: COPY OF THE INTERIM ORDER IN CRL.APPEAL NO.509/2014 DATED 20.12.2014.

ANNEXURE 12: COPY OF THE OPHTHALMIC REPORT DATED 16.9.2014 ISSUED FROM VASAN EYE CARE HOSPITAL, ERNAKULAM.

ANNEXURE 13: COPY OF THE TREATMENT SONOGRAPHIC REPORT ISSUED BY JISHY HOSPITAL, DATED 22.8.2013.

ANNEXURE A14: COPY OF THE BANK STATEMENT WITH STATE BANK OF TRAVANCORE.

ANNEXURE A15: ORIGINAL OF THE AFFIDAVIT DATED 28.6.2015 SWORN IN TO BY THE 2ND RESPONDENT/DEFACTO COMPLAINANT.

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.UBAID, J.

Crl.M.C No.617 of 2015

Dated this the 14th day of July, 2015

O R D E R

The petitioners herein are the four accused in C.C No.4899/2014 of the Judicial First Class Magistrate Court, Kothamangalam. They seek orders quashing the prosecution on the ground of amicable settlement of the whole dispute between them and the de facto complainant. Crime in this case was registered under Section 498A of the Indian Penal Code on the complaint of one Neethu Babu who is the 2nd respondent in this proceeding brought under Section 482 of the Code of Criminal Procedure. She has filed affidavit to the effect that she has settled the whole dispute with the accused, and she has no grievance or complaint now.

2. In so many decisions, the Hon'ble Supreme Court has held that even in cases involving non-compoundable offences, the High Court can quash the prosecution in pending proceedings, if the parties have really settled the whole dispute amicably out of court, and continuance of the prosecution will not serve any purpose in such a circumstance of amicable

settlement. Here, I find a real and genuine case of settlement between the parties. This is not a case involving any public interest or public issue. The parties have come to terms amicably on the intervention of persons acceptable to both sides, and I am satisfied that the parties are now on quite cordial terms. In such a situation, continuance of the prosecution will not serve any purpose other than wasting the precious time of the court. No doubt, nobody will support the prosecution in such a situation, if the case goes to trial.

In the result, this petition is allowed. The prosecution against the petitioners herein in C.C No.4899/2014 of the Judicial First Class Magistrate's Court, Kothamangalam 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.

**P.UBAID
JUDGE**

ab