

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 7TH DAY OF OCTOBER 2015/15TH ASWINA, 1937

Cr1.MC.No. 985 of 2015

IN SC 777/2011 OF THE SESSIONS COURT, THIRUVANANTHAPURAM
CRIME NO. 539/2008 OF VENJARAMOODU POLICE STATION,
THIRUVANANDAPURAM

PETITIONER/IST ACCUSED:

BIVIN, AGED 29 YEARS,
S/O.BHUVANACHANDRAN,
B.V.HOUSE, KOKKOTTUKONAM,
NEAR MANICODE TEMPLE,
MANICAL MURI, NELLANADU VILLAGE,
THIRUVANANTHAPURAM.

BY ADV. SRI.G.SUDHEER

RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
2. OMANAKUTTAN, AGED 49 YEARS,
S/O.VASUDEVAN NAIR, GEETHA BHAVAN, PONNAMBI,
PALAMKONAM, MANIKAL MURI, PULLAMBARA VILLAGE,
THIRUVANANTHAPURAM.
3. SIMI B.O,
D/O.OMANAKUTTAN, GEETHA BHAVAN, PONNAMBI,
PALAMKONAM, THIRUVANANTHAPURAM.

R2 & 3 BY ADV. SRI.S.K.VINOD
R1 BY PUBLIC PROSECUTOR SMT.SHEEBA M.T

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 07-10-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

Cr1.MC.No. 985 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE-A: COPY OF FIR AND FIS IN CRIME 539/2008 OF
VENJARAMMOODU POLICE ON THE FILE OF JFMC-I, NEDUMANGADU.

ANNEXURE-B: COPY OF THE FINAL REPORT IN SC 777/11 ON THE FILE
OF SESSIONS COURT, THIRUVANANTHAPURAM.

ANNEXURE-C: COPY OF THE MARRIAGE CERTIFICATE ISSUED BY SUB
REGISTRAR OF COMMON MARRIAGES, NELLANADU GRAMA PANCHAYATH.

ANNEXURE-D: COPY OF THE BIRTH CERTIFICATE

ANNEXURE-E: COPY OF THE AFFIDAVIT SWORN IN BY 2ND
RESPONDENT/DE-FACTO COMPLAINANT BEFORE NOTARY PUBLIC

ANNEXURE-F: COPY OF THE AFFIDAVIT SWORN IN BY 3RD RESPONDENT

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

ab

P.UBAID, J.

Crl.M.C No.985 of 2015

Dated this the 7th day of October, 2015

O R D E R

The petitioner herein is the first accused in S.C No.777/2011 of the Court of Session, Thiruvananthapuram. It is submitted that the second accused died pending the proceeding, and thus the charge against the second accused abated. The petitioner seeks orders quashing the prosecution on the ground of amicable settlement of the whole dispute. The offences involved in this case are under Sections 363 and 366(A) of the Indian Penal Code. The victim of offence in this case is the 3rd respondent herein, but the complaint was made by the 2nd respondent, who is the father of the victim. As part of the settlement, the petitioner later married the victim.

2. It is submitted that they are now leading a very happy matrimony with a child born with the wedlock. The complainant (2nd respondent) has filed affidavit to the effect that the whole dispute stands resolved forever, and the petitioner and the victim are very happy in matrimony. The alleged incident happened in 2008 when the victim was a minor. Now she is aged 23 years. She was married by the petitioner on 29.1.2012, and the child born in their wedlock is aged 2 years. Annexure C is copy of the marriage

certificate. All these facts are averred in the affidavit filed by the victim and her father.

3. 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 which lead to the marriage between the petitioner and the victim. In such a situation, it is appropriate that the prosecution be quashed, or else, it will cause embarrassment to both the parties, or it may even defile their happy matrimony.

In the result, this petition is allowed. The prosecution against the petitioner herein in S.C No.777/2011 of the Court of Session, Thiruvananthapuram will stand quashed under Section 482 of the Code of Criminal Procedure.

**P.UBAID
JUDGE**

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