

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 13TH DAY OF JULY 2015/22ND ASHADHA, 1937

Crl.MC.No. 1823 of 2015 ()

AGAINST ST 1283/2011 of J.M.C. - II, PERAMBRA
CRIME NO. 218/2011 OF BALUSSERY POLICE STATION , KOZHIKODE

PETITIONER/ACCUSED NO 2:

ANEES AGED 25 YEARS
S/O.ABLULLA KOYA, CHERIYA MARAYIL HOUSE, VATTOLI BAZAR
KOZHIKODE

BY ADV. SRI.NIDHI BALACHANDRAN

RESPONDENT(S)/RESPONDENTS/RESPONDENTS:

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1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM PIN 682 035
 2. NASEERA, AGED 35 YEARS
W/O.ABDUL RAFEEQUE, KAKKARAVAYAL HOUSE, IYYADE AMSOM
SIVAPURAM DESOM, KOZHIKODE - 673587

R2 BY ADV. SRI.T.JAYAKRISHNAN
R1 BY PUBLIC PROSECUTOR SMT.V.H.JASMINE

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
13-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CrI.MC.No. 1823 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE A TRUE COPY OF THE FIR IN CRIME NO 218/2011 OF BALUSSERY
POLICE STATION ON THE FILE OF THE JUDICIAL FIRST CLASS MAGISTRATE
COURT-II,PERAMBRA

ANNEXURE B TRUE COPY OF THE FINAL REPORT IN CRIME NO 218/2011 OF
BALUSSERY POLICE STATION ON THE FILE OF THE JUDICIAL FIRST CLASS
MAGISTRATE COURT-II,PERAMBRA

ANNEXURE C THE AFFIDAVIT SWORN BY THE 2ND RESPONDENT

RESPONDENT(S)' EXHIBITS

/TRUE COPY/

P.S TO JUDGE

P.UBAID, J.
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**Crl.M.C No.1823 of 2015**  
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Dated this the 13th July, 2015

ORDER

The petitioner herein is the second accused. in S.T No 1283 of 2011 of the Judicial First Class Magistrate Court involving the offence punishable under Section 31 of the Protection of Women from Domestic Violence Act. Cognizance was taken by the learned Magistrate on the complaint of one Naseera, who is the 2nd respondent in this proceeding, against her husband and against the petitioner herein, who is a friend of her husband. Now the 2nd accused seeks orders quashing the prosecution on the ground that he and the complainant have come to terms amicably out of court, and that there is no definite allegation against him in the complaint of the 2nd respondent. The second respondent has filed affidavit to the effect that she has settled the whole dispute with the 2nd accused, and she has no grievance or complaint now. Annexure-A is the complaint that led to S.T. No.1283 of 2011. On a reading of this complaint, I find that the main

allegation is against the husband of the 2nd respondent herein, that he violated the courts order or assaulted her in violation of the courts order granting protection. Serious allegations are not seen made against the petitioner herein in the said complaint. Anyway, the matter now stands settled between the complainant and the second accused. The complainant is definite that she does not want to prosecute the second accused in view of the amicable settlement made out of court.

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 petitioner herein in S.T No.1283 of 2011 of the Judicial First Class Magistrate's Court-II, Perambra will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioner will stand released from prosecution and the bail bond, if any, executed by him will stand discharged. The case will continue against the first accused.

**Sd/-
P.UBAID
JUDGE**

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/True copy/

P.S to Judge

