

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 23RD DAY OF JULY 2015/1ST SRAVANA, 1937

Crl.MC.No. 1850 of 2015

**SC NO.1280/2014 OF FIRST ADDITIONAL ASSISTANT SESSIONS COURT,
THIRUVANANTHAPURAM**

CRIME NO. 1987/2012 OF FORT POLICE STATION , THIRUVANANTHAPURAM

PETITIONER/ACCUSED :-

**SHAFI, AGED 37 YEARS,
S/O.E.P.KHAN, T.C.41/1594,
KALIPPANKULAM WARD,
MANACAUD VILLAGE, MANACAUD P.O.,
THIRUVANANTHAPURAM DISTRICT.**

**BY ADVS.SRI.K.S.ARUN KUMAR
SMT.M.N.MAYA
SRI.M.S.DILEEP
SMT.T.VANITHA
SRI.S.M.NOWFI**

RESPONDENTS/COMPLAINANT :-

- 1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KEALA, ERNAKULAM.**
- 2. RAHANA, AGED 20 YEARS,
D/O.HIDROSE, 23/26,
AFSAL MANSIL, THENGAPATTANAM,
PAIKULAM VILLAGE,
KANYAKUMARI DISTRICT, PIN - 629 001.**
- 3. MR.HYDROSE, AGED 64 YEARS, S/O.PEERUMUHAMMED,
23/26, AFSAL MANSIL, THENGAPATTANAM, PAIKULAM VILLAGE,
KANYAKUMARI DISTRICT, PIN - 629 001.**

**R1 BY SMT.S.HYMA, PUBLIC PROSECUTOR
R2 & R3 BY ADV. SMT.RESMI THOMAS**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
23-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' ANNEXURES :-

- ANNEXURE I - CERTIFIED COPY OF THE CHARGE SHEET IN CRIME NO.1987/2012 OF FORT POLICE STATION, THIRUVANANTHAPURAM DISTRICT.**
- ANNEXURE II - TRUE COPY OF THE STATEMENT GIVEN BY THE SECOND RESPONDENT TO THE JFCM -II, THIRUVANANTHAPURAM DATED 24.12.2012.**
- ANNEXURE III - TRUE COPY OF THE 161 STATEMENT GIVEN BY THE SECOND RESPONDENT.**
- ANNEXURE IV - TRUE COPY OF THE FORM OF EXAMINATION AND REPORT OF THE SECOND RESPONDENT DATED 24.12.2012.**
- ANNEXURE V - TRUE COPY OF THE AFFIDAVIT DATED 27.12.2012.**
- ANNEXURE VI - COPY OF THE AFFIDAVIT OF THE 2ND RESPONDENT.**
- ANNEXURE VII - COPY OF THE AFFIDAVIT OF THE 3RD RESPONDENT.**

RESPONDENT(S)' ANNEXURES :- **NIL**

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//TRUE COPY//

P.A. TO JUDGE

P.UBAID, J.

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Crl.M.C.No.1850 of 2015

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Dated this the 23rd day of July, 2015

ORDER

The petitioner herein is the accused in S.C.No.1280 of 2014 of the 1st Additional Assistant Sessions Court, Thiruvananthapuram. He seeks orders quashing the prosecution on the ground of amicable settlement of the whole dispute between him and the de facto complainant. Crime in this case was registered under Sections 366, 376 and 494 of the Indian Penal Code on the complaint of one Hidrose, who is the 3rd respondent in this proceeding brought under Section 482 of the Code of Criminal Procedure. He has filed affidavit to the effect that he has settled the whole dispute with the accused, and he has no grievance or complaint now. The victim of offence is the 2nd respondent. She has also 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 further proceedings 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.

3. On a perusal of the materials, I find some statements given by the victim to the Investigating Officer and also to the learned Magistrate, that she was not in any manner molested by the accused. In such a circumstance, it is not known how charge happened to be laid under Section 376 IPC. In the affidavit filed in this Court also she has repeated her statements, that she was not molested by the accused. In this case, cognizance was seen taken under Section 494 IPC also. Such a cognizance is not possible in view of the bar under the Code of Criminal Procedure. Section 198(1) Cr.P.C. prohibits that no Court shall take cognizance of the offence

under Section 494 IPC without the complaint of the aggrieved person. Anyway, I find that the complaint in this case happened to be made on some misapprehension, and now to the parties have come to terms in the best interest of both the parties. The settlement is acceptable to this Court.

In the result, this petition is allowed. The prosecution against the petitioner herein in S.C.No.1280 of 2014 of the 1st Additional Assistant Sessions Court, Thiruvananthapuram 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.

Sd/-
P.UBAID
JUDGE

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//TRUE COPY//

P.A. TO JUDGE