

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 15TH DAY OF OCTOBER 2015/23RD ASWINA, 1937

Crl.MC.No. 2038 of 2015 ()

**C.C.NO. 4818/2014 of JUDL. FIRST CLASS MAGISTRATE COURT, KOTHAMANGALAM
CRIME NO. 2090/2013 OF KOTHAMANGALAM POLICE STATION , ERNAKULAM**

PETITIONERS/ACCUSED 1-3:

- 1. AMJATH UMMER, AGED 37 YEARS,
S/O.UMMER, RESIDING AT NAYKAMAVAKUDUDIYIL HOUSE,
NANGELIPADY, THANGALAM, KOTHAMANGALAM,
ERNAKULAM DISTRICT.**
- 2. UMMER, AGED 72 YEARS,
S/O.MEERAKUTTY, RESIDING AT NAYKAMAVAKUDUDIYIL HOUSE,
NANGELIPADY, THANGALAM, KOTHAMANGALAM,
ERNAKULAM DISTRICT.**
- 3. SULEKHA, AGED 63 YEARS,
W/O.UMMER, RESIDING AT NAYKAMAVAKUDUDIYIL HOUSE,
NANGELIPADY, THANGALAM, KOTHAMANGALAM,
ERNAKULAM DISTRICT.**

**BY ADVS.SRI.R.O.MUHAMED SHEMEEM
SMT.NASEEHA BEEGUM P.S.
SRI.T.PABDUL HAMEED
SMT. RUKSANA. K. SUBAIR**

RESPONDENTS/DEFACTOCOMPLAINANT:

- 1. SUB INSPECTOR OF POLICE,
KOTHAMANGALAM POLICE STATION,
KOTHAMANGALAM, ERNAKULAM DISTRICT – 686 691.**
- 2. RAPSY ASIYA, AGED 31 YEARS,D/O.KHADER KUNJU,
HASRATH HOUSE, (KUTTIKATTU CHALIL) MUNIYARA ROAD,
THANGALAM, NELLIKUZHI (PO), KOTHAMANGALAM, ERNAKULAM – 686 691.**
- 3. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM- 682 031.**

**R2 BY ADV. SRI.SAIBY JOSE KIDANGOOR
R BY PUBLIC PROSECUTOR SRI. JUSTIN JACOB**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
15-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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Crl.MC.No. 2038 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS:

**ANNEXURE 1- CERTIFIED COY OF FINAL REPORT IN CC NO.4818 OF 2014 OF
JUDICIAL 1ST CLASS MAGISTRATE COURT, KOTHAMANGALAM.**

**ANNEXURE 2- CERTIFIED COY OF FIR IN CRIME NO.2090 OF 2013 OF
KOTHAMANGALAM POLICE STATION.**

**ANNEXURE 3- TRUE COPY OF MEMORANDUM OF AGREEMENT DATED 24.6.2014 OF
MEDIATION CENTRE MUVATTUPUZHA.**

**ANNEXURE 4- TRUE COPY OF THE JUDGMENT DATED 22.7.2014 IN OP NO.451 OF
2013 OF FAMILY COURT AT MUVATTUPUZHA.**

RESPONDENT(S)' EXHIBITS: **NIL**

/TRUE COPY/

P.A. TO JUDGE

AK

P.UBAID, J.

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Crl.M.C.No.2038 of 2015
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Dated this the 15th day of October, 2015

ORDER

The petitioners herein are the three accused in C.C.No.4818 of 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 read with Section 34 of the Indian Penal Code on the complaint of one Rapsy Asiya, 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 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. 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. The Annexure-2 agreement read along with the victim's affidavit will show that the whole matrimonial dispute between the husband and wife stands resolved forever, and that the marriage also stands dissolved. As regards custody of children also the parties have come to some agreement. I am satisfied that the victim's claims also stands settled. As regards custody of children, the parties will have to honour the agreement. Anyway, the compromise arrived at in this proceeding, or the orders quashing the prosecution will not in

any manner affect the rights of the children as regards legal custody or maintenance claim.

In the result, this petition is allowed. The prosecution against the petitioners herein in C.C.No.4818 of 2014 of the Judicial First Class Magistrate 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.

Sd/-
P.UBAID
JUDGE

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//TRUE COPY//

P.A. TO JUDGE