

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 11TH DAY OF SEPTEMBER 2015/20TH BHADRA, 1937

Crl.MC.No. 2119 of 2015 ()

CC 142/2012 of ADDITIONAL CHIEF JUDICIAL MAGISTRATE COURT, ERNAKULAM

PETITIONERS/ACCUSED 1 AND 2:

- 1. MANAF, AGED 42 YEARS
S/O.MOOSA, DARUL SALAM HOUSE, CHITTAYIL ROAD
NEAR CHOICE HOUSE, KUMBALAM, ERNAKULAM DISTRICT.**
- 2. ABDUL RAHIM, AGED 45 YEARS
S/O.MOOSA, DARUL SALAM HOUSE, CHITTAYIL ROAD
NEAR CHOICE HOUSE, KUMBALAM, ERNAKULAM DISTRICT.**

BY ADV. SRI.SIBI THOMAS JACOB

RESPONDENTS/DEFACTO COMPLAINANT AND STATE:

- 1. SAFIYA, AGED 41 YEARS
W/O.MOHAMMED INNYAS, CHIRAPURATHU HOUSE
CHITTAYIL ROAD, NEAR RAMATHA RESORT, KUMBALAM VILLAGE
ERNAKULAM DISTRICT-682506.**
- 2. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.**

**R1 BY ADV. SRI.VINUCHAND
R2 BY PUBLIC PROSECUTOR SMT. REMA R.**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 11-09-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONERS' EXHIBITS

**ANNEXURE A1 COPY OF THE FINAL CHARGE SUBMITTED BY THE 2ND
RESPONDENT BEFORE THE COURT BELOW AS CC
NO.142/2012 ON THE FILE OF THE ADDITIONAL CHIEF JUDICIAL
MAGISTRATE COURT, ERNAKULAM**

**ANNEXURE A2 COPY OF THE AFFIDAVIT SWORN BY THE 1ST
RESPONDENT/DEFACTO COMPLAINANT DATED 28.03.2015**

RESPONDENTS' EXHIBITS

NIL

TRUE COPY

P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C. No.2119 of 2015

Dated this the 11th day of September, 2015

O R D E R

The petitioners herein are the two accused in C.C.No.142/12 of the Additional Chief Judicial Magistrate Court, Ernakulam. 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 Sections 294(b), 509 and 34 IPC, on the complaint of one Safiya, who is the 1st 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. It is submitted that the case now stands transferred to the Judicial First Class Magistrate Court, Maradu, where it is numbered as C.C.No.83/2015.

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.

In the result, this petition is allowed. The prosecution against the petitioners herein in C.C.No.142/2012 of the Additional Chief Judicial Magistrate Court, Ernakulam, which now stands transferred to the Judicial First Class Magistrate Court, Maradu, where it is re-filed as C.C.No.83/2015, 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

sd