

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 25TH DAY OF NOVEMBER 2015/4TH AGRAHAYANA, 1937

Cr1.MC.No. 2371 of 2015

IN CC 1071/2012 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT
-II, KOLLAM

CRIME NO. 215/2012 OF ERAVIPURAM POLICE STATION, KOLLAM

PETITIONERS/ACCUSED:

1. SHAMNAD, AGED 29 YEARS,
S/O.KUNJUMOHAMMED, PEECHAMBALLY HOUSE, KAKKANAD POST,
VAZHAKKALA, ERNAKULAM DISTRICT.
2. NISHA, AGED 47 YEARS,
W/O.KUNJUMOHAMMED, PEECHAMBALLY HOUSE, KAKKANAD POST,
VAZHAKKALA, ERNAKULAM DISTRICT.
3. SHAHIDA,
D/O.KUNJUMOHAMMED, PEECHAMBALLY HOUSE, KAKKANAD POST,
VAZHAKKALA, ERNAKULAM DISTRICT.
4. ANAS KHAN,
RESIDING AT PEECHAMBALLY HOUSE, KAKKANAD POST,
VAZHAKKALA, ERNAKULAM DISTRICT.

BY ADVS.SRI.C.C.ABRAHAM

SRI.V.J.JAMES

RESPONDENTS/OPPOSITE PARTIES:

1. AMEENA, AGED 25 YEARS,
D/O.YOUNUS KUNGU, MOHAMMED SHAFFI MANZIL, MULLUVILA,
VADAKKEVILA POST, KOLLAM - 682 030.
2. THE STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

R1 BY ADV. SRI.S.M.ALTHAF

R2 BY PUBLIC PROSECUTOR SMT.SHEEBA M.T

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 25-11-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

Cr1.MC.No. 2371 of 2015

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE-I: COPY OF THE COMPLAINT NUMBERED AS
C.M.P.NO.1436/2012 FILED BEFORE THE JFCM, KOLLAM.

ANNEXURE-2: COPY OF THE FIR IN CRIME NO.215/2012 OF
ERAVIPURAM POLICE STATION.

ANNEXURE-3: COPY OF THE CHARGE SHEET IN C.C.NO.1071/2012
BEFORE THE JFCM-II KOLLAM.

ANNEXURE-4: COPY OF THE DECISION OF THE LOK ADALATH DATED
30.1.2015.

ANNEXURE-5: THE RECEIPT ISSUED BY THE 1ST RESPONDENT ON
RECEIPT OF GOLD ORNAMENTS IS ANNEXED HEREWITH.

ANNEXURE-6: THE RECEIPT ISSUED BY THE 1ST RESPONDENT ON
RECEIPT OF THE FIXED DEPOSIT FOR RS.5 LAKHS.

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.2371 of 2015

Dated this the 25th day of November, 2015

O R D E R

The petitioners herein are the accused in C.C No.1071/2012 of the Judicial First Class Magistrate Court II, Kollam, involving the offence under Section 498A of the Indian Penal Code. They seek orders quashing the said prosecution on the ground of amicable settlement of the whole dispute. The first respondent herein is the defacto complainant. The petitioners rely on an agreement containing the terms of settlement, including the agreement to pay an amount of ₹11 lakhs. This includes the amount meant for the minor children also. The petitioners have also agreed to return all the ornaments of the complainant. The first respondent entered appearance in the proceeding and also made a submission that the alleged compromise is true, but the petitioners have not so far made payment of the amount agreed between the parties. In view of the said submission the learned counsel for the petitioners submitted before this Court that the petitioners will produce a demand draft for the entire amount in balance.

Accordingly, this Court directed the petitioners to produce the demand draft for the balance amount due. Today a demand draft for the amount of ₹6 lakhs is paid by the learned counsel for the petitioners to the learned counsel for the first respondent. The demand draft was handed over in open court. The said payment is recorded in this proceeding. Now the learned counsel for the first respondent submits that the entire amount due stands paid, in terms of the settlement, and so the entire proceeding can be quashed, as agreed between the parties. I am well satisfied that there is a true and genuine settlement between the parties, and all the claims of the victim stand settled. The learned counsel has received the entire amount due on behalf of the first respondent, by way of demand draft in her name.

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. 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. The learned counsel for the first respondent submits that the name of the first respondent is Amina, and by mistake in the cause title it is shown as Ameena. There is no dispute regarding the identity of the defacto complainant. So this mistake can be ignored, when the entire proceeding is being quashed.

In the result, this petition is allowed. The prosecution against the petitioners herein in C.C No.1071/2012 of the Judicial First Class Magistrate Court II, Kollam, will stand quashed under Section 482 of the Code of Criminal Procedure.

Sd/-
P.UBAID
JUDGE

//True Copy//

P.A to Judge

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