

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 20TH DAY OF OCTOBER 2015/28TH ASWINA, 1937

CrI.MC.No. 2520 of 2015 ()

**SC 240/2010 of ASSISTANT SESSIONS COURT, NEYYATTINKARA
CRIME NO. 171/2008 OF POZHIYOOR POLICE STATION, THIRUVANANDAPURAM
DISTRICT**

=====

PETITIONERS/DEFACTO COMPLAINANT AND VICTIM:

- 1. BABY SELVADAS, AGED 45 YEARS
D/O AASIAL, SURABHI BHAVAN, PLANKALAVILA
POZHIYOOR, KULATHOOR VILLAGE, NEYYATTINKARA TALUK.**
- 2. SOBHANA MARY, D/O BABY SELVADAS
SURABHI BHAVAN, PLANKALAVILA
POZHIYOOR, KULATHOOR VILLAGE, NEYYATTINKARA TALUK.**

BY ADV. SRI.SHAJIN S.HAMEED

RESPONDENTS/STATE AND ACCUSED:

- 1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.**
- 2. ASHLY ZAKARIAS @ SURESH KUMAR, , AGED 32 YEARS
SUJATHAN BHAVAN, KAVUVILA, POZHIYOOR
NEYYATTINKARA.**

R2 BY ADV. SRI.G.SUDHEER

R1 BY PUBLIC PROSECUTOR SRI. JUSTIN JACOB

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 20-10-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONERS' EXHIBITS

ANNEXURE A: COPY OF FIR IN CRIME NO.171/2008 DATED 18.11.2008 OF POZHIYOOR POLICE STATION.

ANNEXURE B: PHOTO COPY OF THE FINAL REPORT IN CRIME NO.171/2008 OF POZHIYOOR POLICE STATION BEFOR ETHE JUDICIAL FIRST CLASS MAGISTRATE COURT-II, NEYYATTINKARA.

ANNEXURE C: ORIGINAL AFFIDAVIT SWORN BY THE 2ND PETITIONER BEFORE THE NOTARY PUBLIC DATED 20.9.2014.

ANNEXURE D: ORIGINAL AFFIDAVIT SWORN BY THE 1ST PETITIONER BEFORE THE NOTARY PUBLIC DATED 20.9.2014.

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY //

P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.2520 of 2015

Dated this the 20th day of October, 2015

O R D E R

A prosecution involving offences under Sections 363 and 376 IPC is sought to be quashed. The 1st petitioner herein is the defacto complainant and the 2nd petitioner is the victim of offence. The 2nd respondent herein is the accused in the case now pending as S.C.No.240/2010 before the learned Assistant Sessions Judge, Neyyattinkara. The petitioners seek orders quashing the prosecution on the ground of amicable settlement made out of court. The Honourable Supreme Court has held in so many decisions that the High Court can quash the prosecution even in cases involving non-compoundable offences, if the parties have come to terms amicably out of court, or if continuance of the prosecution in such a situation will not serve any purpose. The victim of offence has filed an affidavit along with the petition to the effect that the whole dispute stands settled forever, and that she has decided to marry another person.

2. On a perusal of the materials including the complaint, I find that this is not in fact a case of rape. The victim and the 2nd respondent herein had been in love for some time, and she eloped with him with the object of getting married. Due to some reasons, the marriage could not take place. The victim has averred in the affidavit that everything happened in between her and the 2nd respondent was in fact consensual, and that she was never forced or compelled for anything by the accused. The crime happened to be registered by the police on the complaint made by the victim's mother, and investigation vigorously proceeded despite the stand taken by the victim that this is not a case of rape. Any way, now the parties have come to terms, and the whole dispute stands resolved forever. The victim and her mother settled the dispute in the best interest of the victim, who is now desirous of getting married. Definite it is, that continuance of the prosecution will cause embarrassment to the parties, and may even defile the victim's matrimony in future. It is appropriate that the prosecution be quashed at this stage.

In the result, this petition is allowed. The prosecution against the 2nd respondent herein in S.C.No.240/2010 before the learned Assistant Sessions Judge, Neyyattinkara will stand quashed under Section 482 Cr.P.C.

Sd/-
P. UBAID, JUDGE

sd

// True Copy // P.A. to Judge