

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 5TH DAY OF MAY 2015/15TH VAISAKHA, 1937

Crl.MC.No. 2651 of 2015

CRIME NO. 1438/2013 OF CHENGANNOOR POLICE STATION , ALAPPUZHA

PETITIONER(S):

**KISHORE RAJ
S/O.O.T.RAJAN, RAJ VIHAR, MULAKUZHA P.O
CHENGANNUR, ALAPPUZHA DISTRICT.**

BY ADV. SMT.ASHA ELIZABETH MATHEW

RESPONDENT(S):

- 1. STATE OF KERALA
REP. BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM.**
- 2. ANUSHA
AGED 24 YEARS, D/O.YAMUNA
CHENNAMPURA HOUSE, THIRUVANANTHAPURAM CORPORATION
U/230, MARUTHAMKUZHY, SASTHAMANGALAM
THIRUVANANTHAPURAM DISTRICT, KERALA STATE.**

**R2 BY ADV. SRI.NIRMAL V NAIR
R1 BY PUBLIC PROSECUTOR SRI.P.K.ABDUL RAHIMAN**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 05-05-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

Crl.MC.No. 2651 of 2015

APPENDIX

PETITIONER(S)' ANNEXURES

ANNX.A1 - COPY OF THE FIR IN CRIME NO.1438/2013

ANNX.A2 - COPY OF THE JUDGMENT DATED 28/03/2014 IN CRL.M.C.5238/2013

ANNX.A3 - THE NOTARIZED AFFIDAVIT SWORN BY THE 2ND RESPONDENT.

RESPONDENT(S)' ANNEXURES

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

P. UBAID, J.

Crl.M.C.No.2651 of 2015

Dated this the 5th day of May, 2015

O R D E R

The petitioner seeks orders quashing the F.I.R and further proceedings in Crime No.1438/2013 of the Chengannur Police Station, registered under Sections 376, 506(i) and 294(b) read with 34 IPC on the complaint of one Anusha. He seeks orders quashing the prosecution against him on the ground of amicable settlement of dispute out of court. The crime as against the other accused Nos.2 and 3 stands quashed by this Court as per order dated 28.03.2014 in Crl.M.C.No.5328/2013. The 2nd respondent herein is the victim of offence. She has filed affidavit to the effect that she has settled the whole dispute with the accused, and he has no grievance or complaint.

2. On a perusal of the case records, I find that this is not in fact a case of rape. There is reason to believe that the victim had an unholy affair with the petitioner herein for sometime, and when they fell apart, she brought a complaint alleging rape. Any way, the matter stands settled between the parties now.

In so many decisions, the Hon'ble Supreme Court has held that even in cases involving non-compoundable offences, the High Court can quash prosecution; be it at the crime stage or at the trial stage, or even at the appellate or revision stage; if the parties have really settled the whole dispute, or if continuance of prosecution will not serve any purpose. Here, I find a real case of settlement between the parties, and I also find that continuance of prosecution in such a situation will not serve any purpose other than wasting the precious time of the court, when the case ultimately comes before the court.

In the result, this petition is allowed. The F.I.R and further proceedings in Crime No.1438/2013 of the Chengannur Police Station will stand quashed under Section 482 of the Code of Criminal Procedure.

Sd/-

P. UBAID, JUDGE

sd