

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 24TH DAY OF JULY 2015/2ND SRAVANA, 1937

Crl.MC.No. 2814 of 2015 ()

CRIME NO. 485/2014 OF VIDYA NAGAR POLICE STATION , KASARGOD

PETITIONER(S)/ACCUSED NOS 2 & 3 :

1. **ABDUL BASHEER K.A., AGED 43 YEARS
S/O.LATE ABUBACKER, KUNHIKKANAM HOUSE,
NEAR KUNHIKKANAM MOSQUE, P.O., ALAMPALLI,
MUTTATHODI VILLAGE, KASARAGOD DISTRICT.**
2. **UMMER V.K., AGED 33 YEARS
S/O.MUHAMMED, VKM HOUSE, KUNHIKKANAM,
POST ALAMPADY, VIDYANAGAR, KASARAGOD DISTRICT.**

BY ADV. SRI.K.P.HARISH

RESPONDENT(S)/STATE OF KERALA, DEFACTO COMPLAINANT & CW1 :

1. **STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.**
2. **MOHAMMED ANSAF A.S., AGED 11 YEARS,
S/O.ABDULLA, SADATH MANZIL, KUNHIKKANAM,
SANTHOSH NAGAR, CHENGALA VILLAGE, KASARAGOD TALUK,
KASARAGOD DISTRICT-671 121
MINOR REP. BY HIS FATHER ABDULLA 3RD RESPONDENT.**
3. **ABDULLA M., AGED 41 YEARS
S/O.MOHAMMED, SADATH MANZIL, KUNHIKKANAM,
SANTHOSH NAGAR, CHENGALA VILLAGE, KASARAGOD TALUK,
KASARAGOD DISTRICT-671 121**

**R2-R3 BY ADV. SRI.S.R.SREEJITH
R1 BY SMT.S.HYMA, PUBLIC PROSECUTOR**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
24-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

AMV

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE A1 : COPY OF THE FIR AND FI STATEMENT DATED 4-9-2014 CRIME NO.485 OF 2014 OF VIDYANAGAR POLICE STATION.

ANNEXURE A2 : COPY OF THE AFFIDAVIT DATED 6-4-2015 SIGNED BEFORE AN ADVOCATE NOTARY BY THE CW1/RESPONDENT NO.3 FOR AND ON BEHALF OF THE DEFACTO COMPLAINANT/2ND RESPONDENT.

ANNEXURE A2(A) : COPY OF THE AFFIDAVIT DATED 6-4-2015 SIGNED BEFORE AN ADVOCATE NOTARY BY THE CW1/RESPONDENT NO.3.

ANNEXURE A2 (B): COPY OF THE AFFIDAVIT DATED 26-2-2015 SIGNED BEFORE AN ADVOCATE NOTARY BY THE CW1/RESPONDENT NO.3 FOR AND ON BEHALF OF THE DEFACTO COMPLAINANT/2ND RESPONDENT.

ANNEXURE A2(C) : COPY OF THE AFFIDAVIT DATED 9-10-2014 SIGNED BEFORE AN ADVOCATE NOTARY BY THE CW1/RESPONDENT NO.3.

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

P.A.TO JUDGE

AMV

P. UBAID, J.

Crl.M.C. No.2814 of 2015

Dated this the 24th day of July, 2015

O R D E R

The petitioners seek orders quashing the F.I.R and further proceedings in Crime No.485/2014 of the Vidyanagar Police Station, registered under Sections 377 IPC and under Section 4 of the Protection of Children from Sexual Offences Act, on the complaint of one Mohammed Ansaf, who is the 2nd respondent in this proceeding. Orders are sought on the ground of amicable settlement of the whole dispute between the accused, and the de facto complainant out of court. The victim's father, Abdulla is the 3rd respondent in this proceeding brought under Section 482 of the Code of Criminal Procedure. He has filed affidavit to the effect that he has settled the whole dispute with the accused, and he has no grievance or complaint.

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. On a perusal of the complaint, I find that the allegations made in the complaint are only against the 1st petitioner, and the complaint does not contain any specific allegation of commission of any specific offence against the other petitioner. I am definite that continuance of prosecution as against these petitioners will be an abuse of legal process, when the complaint does not contain any definite and specific allegation against the second petitioner. In such a situation, it is appropriate that the criminal proceedings as against them be quashed.

In the result, this petition is allowed. The F.I.R and further proceedings in Crime No.485/2014 of the Vidyanagar Police Station will stand quashed under Section 482 of the Code of Criminal Procedure.

Sd/-

P. UBAID, JUDGE

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