

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 14TH DAY OF JULY 2015/23RD ASHADHA, 1937

Cr1.MC.No. 3251 of 2015

IN S.C NO.1462/2010 IN L.P NO.42/2011 BEFORE THE SESSIONS COURT
(SPECIAL COURT), KOLLAM

CRIME NO. 129/2007 OF PALLITHOTTAM POLICE STATION , KOLLAM

PETITIONER/ACCUSED:

RIYAS, AGED 33 YEARS,
S/O KABEER, RESIDING AT H & C COMPOUND,
PALLITHOTTAM,
KOLLAM WEST, KOLLAM.

BY ADV. SRI.SAJU J PANICKER

RESPONDENTS/STATE/DEFACTO COMPLAINANT:

1. STATE OF KERALA
(SUB INSPECTOR OF POLICE
PALLITHOTTAM POLICE STATION
CRIME NO.129/2007) REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.
2. ANI @ CHRISTY JOSEPH, AGED 39 YEARS
S/O JOSEPH, RESIDING AT KADAPPURAM, PURAMBOKE VEEDU,
(GALEELA NAGAR), KODIMARAM, PALLITHOTTAM CHERRY,
KOLLAM WEST VILLAGE, KOLLAM-691001.
3. SMT. SHEEJA, AGED 27 YEARS,
W/O ANIL, RESIDING AT KADAPPURAM, PURAMBOKE VEEDU,
(GALEELA NAGAR), KODIMARAM, PALLITHOTTAM CHERRY,
KOLLAM WEST VILLAGE, KOLLAM-691001.
4. MARY SUJA, AGED 13 YEARS,
D/O.SHEEJA, RESIDING AT KADAPPURAM, PURAMBOKE VEEDU,
(GALEELA NAGAR), KODIMARAM, PALLITHOTTAM
CHERRY, KOLLAM WEST VILLAGE, KOLLAM-691001.

R3 BY ADV. SRI.JOSE ANTONY

R2 BY ADV. SRI.B.MOHANLAL

R1 BY PUBLIC PROSECUTOR SMT.V.H.JASMINE

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 14-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No.3251 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A1: COPY OF THE FIR IN CRIME NO.129/2007 OF PALLITHOTTAM
POLICE STATION.

ANNEXURE A2: COPY OF THE CHARGE SHEET IN CRIME NO.129/2007.

ANNEXURE A3: THE AFFIDAVIT SWORN BY THE 2ND RESPONDENT.

ANNEXURE A4: THE AFFIDAVIT SOWRN BY THE 3RD RESPONDENT.

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.3251 of 2015

Dated this the 14th day of July, 2015

O R D E R

The petitioner herein is the accused in S.C No.1462/2010 of the Court of Session, Kollam. The case now stands transferred to the register of long pending cases as L.P No.42/2011 before the Special Court (trial of offences against Women and Children), Kollam. He seeks orders quashing the prosecution on the ground of amicable settlement of the whole dispute between him and the de facto complainant. Crime in this case was registered under Section 354 of the Indian Penal Code on the complaint of one Anil, who is the 2nd respondent in this proceeding brought under Section 482 of the Code of Criminal Procedure. The victim of offence is a minor girl of 13 years, and she is the 4th respondent in this proceeding. Her parents who are respondents 2 and 3 herein, have filed affidavit to the effect that they have settled the whole dispute with the accused, and they have no grievance or complaint now.

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 am well satisfied that the respondents 2 and 3 have come to terms and settled the whole dispute at the best interest of the minor girl. If the small girl is brought to court and subjected to cross examination, it is definite that such process will cause much hardship to the small girl. It is appropriate that the settlement be accepted. 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 petitioner herein in S.C No.1462/2010 (now pending as L.P No.42/2011) of the Special Court, for the trial of offences against women and children, Kollam, will stand quashed under Section 482 of the Code of Criminal Procedure.

**P.UBAID
JUDGE**

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