

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 30TH DAY OF NOVEMBER 2015/9TH AGRAHAYANA, 1937

CrI.MC.No. 3303 of 2015

SC NO. 118/2014 OF SESSIONS COURT, MANJERI
.....

PETITIONER/ACCUSED:

**KHALID, AGED 38 YEARS
S/O MOIDHEENKUTTY HAJI,
ONGATTU HOUSE,
MAVINCHUVADU
PALLIKKAL NAGAR.**

BY ADV. SRI.SUNNY MATHEW

RESPONDENT/DE FACTO COMPLAINANT AND STATE:

- 1. KHADEEJATHIL MALEEHA, AGED 25 YEARS
D/O MOIDHEENKUTTY,
ARAMKUNI HOUSE,
NALLALAM P.O.
KOZHIKODE DISTRICT - 673 001**
- 2. THE SUB INSPECTOR OF POLICE
THENJIPALAM POLICE STATION - 673 001**
- 3. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA,
ERNAKULAM-682031.**

**R1 BY ADV. SRI.C.C.ANOOP
R2 & R3 BY PUBLIC PROSECUTOR SMT. SHEEBA M.T.**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
30-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' ANNEXURES:-

- ANNEXURE A1: TRUE COPY OF THE FINAL REPORT IN SC 118/2014.**
- ANNEXURE A2: TRUE COPY OF THE AFFIDAVIT SWORN TO BY THE 1ST
RESPONDENT/DEFACTO COMPLAINANT**
- ANNEXURE A3: TRUE COPY OF THE AGREEMENT ENTERED INTO
BETWEEN THE PETITIONER AND THE 1ST RESPONDENT**

(IN CR. MISC. APPLN. NO. 11159/2015)

- ANNEXURE A3: A TRUE COPY OF THE AFFIDAVIT SWORN TO BY THE 1ST
RESPONDENT**
- ANNEXURE A4: THE BANK STATEMENT OF THE 1ST RESPONDENT**
- ANNEXURE A5: A TRUE COPY OF THE ASSIGNMENT DEED EXECUTED BY
THE PETITIONER IN FAVOUR OF THE 1ST RESPONDENT**

RESPONDENT(S)' ANNEXURES:- NIL

/TRUE COPY/

P.A. TO JUDGE

DCS

P. UBAID, J.

Crl.M.C. No. 3303 of 2015

Dated this the 30th day of November, 2015

O R D E R

The petitioner herein is the sole accused in S.C. No. 118/2014 of Court of Session, Manjeri involving the offence under Section 307 of Indian Penal Code. The de facto complainant is none other than the petitioner's divorced wife. The prosecution case is that at about 3.00 P.M. on 28.12.2012, the petitioner assaulted the de facto complainant and inflicted injuries on her body with a weapon, with the object of causing her death. The petitioner now seeks orders quashing the said prosecution on the ground that the whole dispute stands settled and resolved forever, amicably. Pending the proceeding, the parties came to an agreement containing the terms of the settlement. As per the agreement, an amount of Rs. 12 Lakhs was agreed to be paid to the de facto complainant by the petitioner. He also agreed to assign some property in the name of the small children. The de facto complainant is the first respondent herein. She has filed affidavit, that the whole dispute stands settled and resolved forever, and that she has no grievance or complaint now.

2. To evidence payment of the amount agreed upon, the de facto complainant today produced the copy of her bank pass book, and she also filed another affidavit that she has received the entire amount due from the petitioner in terms of the settlement. The original document by which some property stands gifted by the petitioner to his children also was shown to me during the proceeding. Thus, I find that the petitioner has complied with the terms of the settlement, and all other dues stand discharged by him. In so many decisions, the Honourable Supreme Court has held that even in cases involving non-compoundable offences, the High Court can quash the prosecution, if the parties have really settled the dispute, and continuance of the prosecution will not serve any purpose.

3. Ofcourse, it is true that some serious injuries were inflicted by the petitioner on the body of his divorced wife. It appears that there was a long standing dispute between them. There is nothing to show that the petitioner inflicted the injuries with the object of causing her death. There is reason to believe, from the affidavit of the victim, that the alleged incident in fact happened in connection with the matrimonial dispute. The parties have already come to terms regarding the claims of the victim, maintenance of the children, and also their guardianship.

Thus every issue between them stands amicably resolved forever. In such a situation, there is no possibility of the victim and other witnesses supporting the prosecution. It is quite appropriate that the prosecution be quashed. Continuance of the case, in such a situation, will be a sheer waste of time.

In the result, the petition is allowed. The prosecution against the petitioner in S.C. No. 180/2014 of the Court of Session, Manjeri will stand quashed under Section 482 Cr.P.C.

P. UBAID, JUDGE

DCS

The lower court case number "S.C. No. 180/2014" occurring in the second line of the operative portion at page 3 of the final order dated 30.11.2015 in Crl. M.C. No. 3303/2015 is corrected and substituted as "S.C. No. 118/2014" as per order dated 17.05.2016 in Crl. M.A. No. 471/2016 in Crl. M.C. No. 3303/2015.

sd/-
Registrar (Judicial)