

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 10TH DAY OF DECEMBER 2015/19TH AGRAHAYANA, 1937

Cr1.MC.No. 3655 of 2015 ()

IN C.C 34/2013 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT
II, HARIPAD

CRIME NO. 774/2012 OF HARIPAD POLICE STATION , ALAPPUZHA

PETITIONER/ACCUSED:

MRS.SETHU LEKSHMI, AGED 47 YEARS,
G.S.BHAVANAM, THULAPARAMBU NADVATHUM MURI,
MANNARASALA P.O, HARIPAD.

BY ADVS.SRI.BIMAL K.NATH
SRI.K.T.THOMAS (KANNAMPALLIL)
SRI.D.SREENATH

RESPONDENTS/COMPLAINANT:

1. STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
2. MS.GEETHA.M, MANAGER,
KERALA STATE FINANCIAL ENTERPRISES LIMITED,
HARIPAD.

*ADDL R3

THE KERALA STATE FINANCIAL ENTERPRISES LIMITED,
HARIPAD BRANCH,
REPRESENTED BY THE MANAGER,
HARIPAD.

ADDL. R3 IS IMPEADED AS PER ORDER DATED 13.7.2015 IN CRL.M.A
NO.6511/2015.

ADDL.3 BY ADV. SRI.BABU VARGHESE (SR.)
ADDL.3 BY ADV. SRI.ALEXANDER.C.V., SC, KERALA STATE
FINANCIAL ENTERPRISES
R1 BY PUBLIC PROSECUTOR SRI.JUSTIN JACOB

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
10-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 3655 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE-A1: COPY OF THE PRIVATE COMPLAINT FILED BY THE 2ND
RESPONDENT BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT
II, HARIPAD ON 27/07/2012

ANNEXURE-A2: COPY OF THE FIR NO.774/2012 DATED 01/08/2012
REGISTERED BY HARIPAD POLICE STATION

ANNEXURE-A3: COPY OF THE FINAL REPORT IN CRIME NUMBER 774/2012
DATED 10/01/2013

ANNEXURE-A4: COPY OF THE FIR NO:853/2011 DATED 23/12/2011
REGISTERED BY KAREELAKULANGARA POLICE STATION

ANNEXURE-A5: COPY OF THE FINAL REPORT FILED BY
KAREELAKULANGARA POLICE STATION, BEFORE JUDICIAL FIRST CLASS
MAGISTRATE COURT I, HARIPAD IN CRIME NO:853/2011 DATED
15/02/2014.

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

ab

P.UBAID, J.

Crl.M.C No.3655 of 2015

Dated this the 10th day of December, 2015

O R D E R

The petitioner herein is the sole accused in C.C. No.34/2013 of the Judicial First Class Magistrate Court II, Haripad, involving the offences under Sections 177 and 420 of the Indian Penal Code. The complaint in this case was made by the 2nd respondent, in connection with a loan transaction. When the petitioner herein made default, the bank came with the complaint alleging cheating. The prosecution is sought to be quashed on the ground that the liability, if at all there is, is civil in nature, and that there is no element of cheating in the complaint, or the prosecution records. Pending the proceedings the matter was referred to mediation. The parties came to terms amicably before the mediator at the Mediation and Conciliation Centre, High Court of Kerala, and executed a memorandum of agreement settling the whole dispute. The memorandum of agreement signed by the parties shows that the respondents have received the amount due from the petitioner in full and final settlement of the claim, and in such a situation, the respondents do not want to prosecute the matter further.

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. The respondents' only concern is the money due from the petitioner, and they initiated prosecution with the object of releasing the money. The liability, now stands discharged, and the respondents have no complaint or grievance now. In such a situation, I find that it would appropriate to quash the prosecution.

In the result, this petition is allowed. The memorandum of agreement signed by the parties before the Mediation Centre is accepted. Accordingly, the prosecution against the petitioner in C.C No.34/2013 of the Judicial First Class Magistrate's Court II, Haridpad will stand quashed under Section 482 of the Code of Criminal Procedure.

**Sd/-
P.UBAID
JUDGE**

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//True Copy//