

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

Crl.MC.No. 3736 of 2015 ()

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CC 239/2013 of CHIEF JUDICIAL MAGISTRATE COURT, ALAPPUZHA
CRIME NO. 343/2008 OF ALAPPUZHA NORTH POLICE STATION , ALAPPUZHA
DISTRICT
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PETITIONERS/ACCUSED:

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- 1. SOMJITH, AGED 27 YEARS
S/O.SOMANATHAN, DEVASWAM CHIRA
KUPPAPURAM P.O., ALAPPUZHA.**
 - 2. SOMANATHAN, AGED 58 YEARS
S/O.MATHU, DEVASWAM CHIRA
KUPPAPURAM P.O., ALAPPUZHA.**
 - 3. SHEELA, AGED 48 YEARS
W/O.SOMANATHAN, DEVASWAM CHIRA
KUPPAPURAM P.O., ALAPPUZHA.**
 - 4. SURESH, AGED 46 YEARS
S/O.SUDHAN, DEVASWAM CHIRA
KUPPAPURAM P.O., ALAPPUZHA.**
 - 5. SANEEJ KUMAR, AGED 49 YEARS
S/O.MURALLIDHARAN, DEVASWAM CHIRA
KUPPAPURAM P.O., ALAPPUZHA.**

BY ADV. SMT.ANJALI G.KRISHNAN

RESPONDENTS/COMPLAINANT & DEFACTO COMPLAINANT:

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- 1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-682031.**

- 2. PRABHUKUMAR, AGED 59 YEARS
S/O.RAGHAVAN, PRABHU SADANAM, WARD NO.VI
ARYAD PANCHAYATH, ALAPPUZHA DISTRICT, 688001.**

**R2 BY ADV. SRI.S.SANAL KUMAR
R2 BY ADV. SMT.BHAVANA VELAYUDHAN
R2 BY ADV. SMT.T.J.SEEMA
R2 BY ADV. SRI.M.T.SURESHKUMAR
R1 BY PUBLIC PROSECUTOR SMT. S. HYMA**

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

APPENDIX

PETITIONERS' EXHIBITS

**ANNEXURE-A1: TRUE COPY OF THE FINAL REPORT IN CRIME NO.343/2008 OF
NORTH POLICE STATION, ALAPPUZHA.**

**ANNEXURE-A2: TRUE COPY OF THE AFFIDAVIT SWORN TO BY THE 2ND
RESPONDENT.**

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY //

P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.3736 of 2015

Dated this the 14th day of July, 2015

O R D E R

The petitioners herein are the accused in C.C. No.239/2013 of the Chief Judicial Magistrate Court, Alappuzha. They seek orders quashing the prosecution on the ground of amicable settlement of the whole dispute between them and the de facto complainant. Crime in this case was registered under Sections 192, 193, 496 and 120B IPC and Sections 9, 10 and 11 of the Prohibition of Child Marriage Act, on the complaint of one Prabhukumar, who is the 2nd 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 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 further proceedings will not serve any purpose in such a circumstance of amicable settlement. The girl, who married the first accused was aged 22 years at the relevant time. She is not seen made accused in this case. The bridegroom was aged only 19 years at the time of marriage. Any way, the parties have come to terms. It is submitted that the said girl and the first accused herein have been living happily as husband and wife with the child born in their happy matrimony. In such a situation, continuance of the prosecution will do harm and hardship to both the parties. Here, I find a real and genuine case of settlement between the parties. 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. 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 petitioners herein in C.C. No.239/2013 of the Chief Judicial Magistrate Court, Alappuzha will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioners

will stand released from prosecution and the bail bond, if any, executed by them will stand discharged.

Sd/-

P. UBAID, JUDGE

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