

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 2ND DAY OF SEPTEMBER 2015/11TH BHADRA, 1937

Crl.MC.No. 3752 of 2015 (E)

**C.C.NO.1524/2014 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-I,
CHENGANNUR**

PETITIONERS/ACCUSED 1 TO 3 :-

- 1. DR. JACOB THOMAS, AGED 38 YEARS,
SON OF DR. M.C.THOMAS, MEDAYIL HOUSE, H&C ROAD,
SURYA NAGAR, MUNDAKKAL P.O., KOLLAM,
PIN - 691001.**
- 2. DR. M.C.THOMAS, AGED 67 YEARS,
SON OF M.K.CHACKO, MEDAYIL HOUSE, H&C ROAD,
SURYA NAGAR, MUNDAKKAL P.O., KOLLAM,
PIN-691001.**
- 3. SUGUNA THOMAS, AGED 65 YEARS,
WIFE OF M.C.THOMAS, MEDAYIL HOUSE, H&C ROAD,
SURYA NAGAR, MUNDAKKAL P.O., KOLLAM,
PIN-691001.**

**BY ADVS.SRI.A.V.THOMAS (SR.)
SMT.M.M.JASMIN
SRI.NIDHI SAM JOHN
SRI.LIJO JOSEPH**

RESPONDENTS/STATE & DE FACTO COMPLAINANT :-

- 1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031.**
- 2. ABRAHAM DAVID, AGED 63 YEARS,
SON OF M.I.DAVID,
MUPPETIL KAIMUTTIL VADAKETHIL HOUSE, VENMONY P.O.,
CHENGANNUR, ALAPPUZHA DISTRICT, PIN-689509.**

**R1 BY SMT.SHEEBA M.T., PUBLIC PROSECUTOR
R2 BY ADVS. SRI.SIBY CHENAPPADY
SMT.ANU GEORGE
SRI.C.JOSEPH JOHNY**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 02-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' ANNEXURES :-

- ANNEXURE A1 - CERTIFIED COPY OF FINAL REPORT DATED 28-02-2014 SUBMITTED IN C.C.NO. 1524 OF 2014 IN THE JUDICIAL 1ST CLASS MAGISTRATE COURT-1, CHENGANNUR.**
- ANNEXURE A2 - TRUE PHOTOCOPY OF O.P.NO. 443/2015 DATED 25-04-2015 FILED BY THE FIRST PETITIONER AND RIYAN SUSAN ABRAHAM IN THE FAMILY COURT, MAVELIKKARA, UNDER SECTION 10A OF DIVORCE ACT 1869.**
- ANNEXURE A3 - TRUE PHOTOCOPY OF AGREEMENT DATED 24-03-2015 EXECUTED BETWEEN RIYAN SUSAN ABRAHAM THROUGH 2ND RESPONDENT HEREIN AS 1ST PARTY AND THE 1ST PETITIONER AS 2ND PARTY.**
- ANNEXURE A4 - TRUE PHOTOCOPY OF THE I.A.NO. 920/2015 IN O.P.NO. 1166/2013 FILED IN THE FAMILY COURT, MAVELIKKARA.**
- ANNEXURE A5 - TRUE PHOTOCOPY OF THE DEED OF POWER OF ATTORNEY DATED 05-09-2013 EXECUTED BY RIYAN SUSAN ABRAHAM IN FAVOUR OF THE 2ND RESPONDENT.**

RESPONDENT(S)' ANNEXURES :- NIL

//TRUE COPY//

P.A. TO JUDGE

P.UBAID, J.

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Crl.M.C.No.3752 of 2015

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Dated this the 2nd day of September, 2015

ORDER

The petitioners herein are the three accused in C.C.No.1524 of 2014 of the Judicial First Class Magistrate Court-I, Chengannur. 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 498A, 406, 420, 468, 471, and 34 of the Indian Penal Code on the complaint of one Abraham David, 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 and his daughter have settled the whole dispute with the accused, and he has no grievance or complaint now. The victim of offence is none other than the daughter of the complainant. She has also filed affidavit to the effect that she has settled the whole dispute with the accused, and she 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. 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.

3. The victim's affidavit shows that the whole matrimonial dispute stands resolved forever, and the parties have filed a joint petition under Section 10A of Divorce Act for divorce. Thus the parties have decided to part ways. In such a situation, it is appropriate that the prosecution be quashed.

In the result, this petition is allowed. The prosecution against the petitioners herein in C.C.No.1524 of 2014 of the

Judicial First Class Magistrate Court-I, Chengannur 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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//TRUE COPY//

P.A. TO JUDGE