

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 20TH DAY OF JULY 2015/29TH ASHADHA, 1937

Cr1.MC.No. 4534 of 2015

IN C.P NO.43/2013 of J.M.F.C., ADOOR

CRIME NO. 1054/2010 OF PANDALAM POLICE STATION, PATHANAMTITTA

PETITIONER/ACCUSED:

VIJO.R, AGED 24 YEARS,
S/O.REVI VALIYATHU COLONY, POOZHIKKADU MURI,
PANDALAM VILLAGE, NOW RESIDING AT THUNDATHIL
POOZHIKKADU, KUDASSANAD PO, PANDALAM,
ADOOR

BY ADVS.SRI.K.SHAJ
SRI.SAJJU.S

RESPONDENTS/STATE AND CW1 & 2:

1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM - 682031
 2. MINI, AGED 42 YEARS,
W/O.BABU, POKKUTTUCHIRA, VADAKKEKARA VEEDU,
KURAMPALA SOUTH POST OFFICE, KURAMPALA,
PANDALAM - 689501
 3. NEETHU, AGED 22 YEARS,
W/O.VIJO, POKKUTTUCHIRA VADAKKEKARA VEEDU,
KURAMPALA SOUTH POST OFFICE,
KURAMPALA, NOW RESIDING AT THUNDATHIL, POOZHIKKADU,
KUDASSANAD P.O, PANDALAM VILLAGE, ADOOR TALUK - 689645
- R2-3 BY ADV. SRI.SERGI JOSEPH THOMAS
R1 BY PUBLIC PROSECUTOR SMT.S.HYMA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 20-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 4534 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A1: COPY OF THE CHARGE SHEET IN CP.NO.43/2013 PENDING BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT, ADOOR AND IN CRIME NO. 1054/2010 OF PANDALAM POLICE STATION.

ANNEXURE A2: COPY OF MARRIAGE CERTIFICATE ISSUED BY THE MARRIAGE OFFICER, PANDALAM

ANNEXURE A3: AN AFFIDAVIT SWORN BY THE SECOND RESPONDENT STATING THE SETTLEMENT OF AL THE DISPUTES

ANNEXURE A4:AN AFFIDAVIT SWORN BY THE THIRD RESPONDENT STATING THE SETTLEMENT OF AL THE DISPUTES

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.4534 of 2015

Dated this the 20th day of July, 2015

O R D E R

The petitioner herein is the sole accused in C.P No.43/2013 of the Judicial First Class Magistrate Court, Adoor. 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 366 of the Indian Penal Code on the complaint of one Mini who is the 2nd respondent in this proceeding brought under Section 482 of the Code of Criminal Procedure.

2. The victim of offence in this case is the 3rd respondent in this proceeding. 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. The affidavit also shows that the petitioner has already married the victim and they are now living as husband and wife happily and peaceably. Copy of the marriage certificate under the Special Marriage Act is also produced by the petitioner. The victim's mother, who preferred the complaint in this case has also filed affidavit that the

petitioner has married her daughter and now they are living as husband and wife. The victim's affidavit shows that she happened to give a statement against the petitioner under some misapprehension. In the above circumstances, continuance of prosecution will do harm and harassment to the parties, and it may even defile the matrimony.

3. 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 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 petitioner herein in C.P No.43/2013 of the Judicial First Class Magistrate Court, Adoor will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioner will stand released from prosecution, and the bail bond, if any, executed by him will stand discharged.

**P.UBAID
JUDGE**

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