

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 23RD DAY OF JULY 2015/1ST SRAVANA, 1937

Crl.MC.No. 4633 of 2015

CC 1459/2012 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-II, NEDUMANGAD
CRIME NO. 505/2012 OF VATTIYOORKAVU POLICE STATION , THIRUVANANDAPURAM

PETITIONERS/1ST AND 2ND ACCUSED : -

- 1. SUDHEER M., AGED 35 YEARS,
S/O.MOHAMMED SALI, SHALIMAR, KACHANI,
NETTAYAM P.O., PEROORKADA VILLAGE,
THIRUVANANTHAPURAM DISTRICT.**
- 2. JAMEELA, AGED 63 YEARS,
D/O.FATHIMA, RESIDING AT SHALIMAR, KACHANI,
NETTAYAM P.O., PEROORKADA VILLAGE,
THIRUVANANTHAPURAM DISTRICT.**

BY ADV. SMT.M.SANTHI

RESPONDENT/STATE AND DEFACTO COMPLAINANT :-

- 1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682031.**
- 2. SIMI C.S., D/O.SAKUNTHALA BAI,
AGED 35 YEARS, SUMARIN, NETTAYAM P.O.,
PEROORKADA VILLAGE.**

R1 BY SMT.V.H.JASMINE, PUBLIC PROSECUTOR
R2 BY ADV. SRI.P.VISHNU PRASAD

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 23-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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Crl.MC.No. 4633 of 2015

APPENDIX

PETITIONER(S)' ANNEXURES :-

**ANNEURE-1. CERTIFIED COPY OF FIR IN CC 1459/2012 OF JUDICIAL FIRST CLASS
MAGISTRATE COURT-II, NEDUMANGAD.**

ANNEURE-II. CERTIFIED COPY OF THE FINAL REPORT IN CC 1459/2012.

ANNEURE-III. COPY OF THE AFFIDAVIT SWORN BY THE 2ND RESPONDENT.

RESPONDENT(S)' ANNEXURES :- NIL

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//TRUE COPY//

P.A. TO JUDGE

P.UBAID, J.

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Crl.M.C.No.4633 of 2015

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Dated this the 23rd day of July, 2015

ORDER

The petitioners herein are accused Nos.1 and 2 in C.C. No.1459 of 2012 of the Judicial First Class Magistrate Court-II, Nedumangad. 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, 494 and 420 read with Section 34 of the Indian Penal Code on the complaint of one Simi.C.S., who is the 2nd respondent in this proceeding brought under Section 482 of the Code of Criminal Procedure. She has 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 prosecution in pending proceedings, if the parties have really settled the whole dispute amicably out of court, and continuance of further 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, and I am satisfied that the parties are now on quite cordial terms. 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. In fact, the prosecution in this case under Section 494 IPC cannot proceed in view of the bar of cognizance under the law. Anyway the whole dispute stands settled, and the victim has joined her husband. Her affidavit shows that she and her husband have been leading a happy matrimony now. In such a situation, continuance of prosecution will cause harm and hardship to them in matrimony. 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.1459 of 2012 of the Judicial First Class Magistrate Court-II, Nedumangad 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