

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 17TH DAY OF AUGUST 2015/26TH SRAVANA, 1937

Crl.MC.No. 4739 of 2015 (E)

CP 37/2015 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, THIRUVALLA

CRIME NO. 458/2014 OF PERUMPETTY POLICE STATION , PATHANAMTITTA

PETITIONER(S)/ACCUSED :-

**JOSEPH AUSTIN, AGED 20 YEARS,
S/O. AUSTIN DAVIDSON, 118(A), ALEX VILLA,
THANGI NAGAR, THANGASSERY, KOLLAM WEST VILLAGE.**

**BY ADVS.SRI.GEORGE SEBASTIAN
SRI.R.SYLESHWAREN NAIR**

RESPONDENT(S)/INFORMANT & STATE :-

- 1. SUSAN PHILIP, W/O. JERRY THOMAS,
MAILATTE HOUSE, CHUNGAPPARA,
KOTTANGAL VILLAGE, PIN-686 547.**
- 2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**

**R1 BY ADVS. SRI.T.MADHU
SRI.ROY THOMAS (PATHANAMTHITTA)
R2 BY SMT.V.H.JASMINE, PUBLIC PROSECUTOR**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 17-08-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' ANNEXURES :-

**ANNEXURE A : A TRUE COPY OF THE FIR AND FI STATEMENT IN CRIME
NO.458/2014 OF PERUMBETTY POLICE STATION.**

**ANNEXURE B : THE CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.458/2014
OF PERUMBETTY POLICE STATION, NOW PENDING AS CP 37/2015
OF JFCM COURT, THIRUVALLA.**

**ANNEXURE C : A TRUE COPY OF THE STATEMENT OF THE DAUGHTER OF THE 1ST
RESPONDENT BY NAME GREESHMA, RECORDED BY JUDICIAL
FIRST CLASS MAGISTRATE, ADOOR, WHICH WAS TAKEN ON
22.8.2014.**

RESPONDENT(S)' ANNEXURES :- NIL

//TRUE COPY//

P.A. TO JUDGE

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P.UBAID, J.

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Crl.M.C.No.4739 of 2015

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Dated this the 17th day of August, 2015

ORDER

The petitioner herein is the accused in C.P.No.37 of 2015 of the Judicial First Class Magistrate Court, Thiruvalla. 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 363 of the Indian Penal Code on the complaint of one Susan Philip, who is the 1st 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 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, 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. The affidavit filed by the first respondent shows that complaint in fact happened to be made on some misapprehension, and that the victim had in fact given a statement before the learned Magistrate under Section 164 Cr.P.C. that she was not enticed, or taken away by the petitioner. The affidavit also shows that nothing had in fact happened to the deponent's daughter, and she apprehends that continuance of the proceeding will cause harm to the victim. I also find, on hearing both sides, that exposure of the victim to a trial process in the above circumstances will cause hardship to her, and it will even affect her future. The parties have come to terms amicably, and the whole dispute or misunderstanding stands resolved forever. In such a situation, in the interest of the victim, who is now pursuing her studies, it is appropriate that the pending prosecution be quashed.

In the result, this petition is allowed. The prosecution against the petitioner herein in C.P.No.37 of 2015 of the Judicial First Class Magistrate Court, Thiruvalla 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.

Sd/-

**PUBAID
JUDGE**

rkj

//TRUE COPY//

P.A. TO JUDGE