

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE P.UBAID**

**WEDNESDAY, THE 29TH DAY OF JULY 2015/7TH SRAVANA, 1937**

**Crl.MC.No. 4797 of 2015**  
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**CC NO. 688/2013 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-II, HOSDRUG**

**CRIME NO. 601/2012 OF CHITTARIKKAL POLICE STATION , KASARGOD**

**PETITIONERS/ACCUSED :-**  
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- 1. MOYILAKIRIYATH SUBAIR, AGED 40 YEARS,  
S/O.ABOOBACKER,  
RESIDING AT OTTAPPADAVU,  
P.O.PERUMBATTA,  
KASARGOD DISTRICT.**
- 2. MOYILAKIRIYATH BASHEER, AGED 44 YEARS,  
S/O.ABOOBACKER,  
RESIDING AT OTTAPPADAVU,  
P.O.PERUMBATTA,  
KASARGOD DISTRICT.**
- 3. MOYILAKIRIYATH KUNHAMINA, AGED 60 YEARS,  
D/O.ABOOBACKER,  
RESIDING AT OTTAPPADAVU,  
P.O.PERUMBATTA,  
KASARGOD DISTRICT.**
- 4. MOYILAKIRIYATH AFSATH, AGED 43 YEARS,  
D/O.ABOOBACKER,  
RESIDING AT OTTAPPADAVU,  
P.O.PERUMBATTA,  
KASARGOD DISTRICT.**

**BY ADVS.SRI.T.K.VIPINDAS  
SRI.K.V.SREE VINAYAKAN  
SRI.K.M.HASHIR  
SRI.K.M.MUHAMMED HUSSAIN**

**RESPONDENTS/STATE & DEFACTO COMPLAINANT :-**

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- 1. THE STATE OF KERALA,  
REPRESENTED BY PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA,  
ERNAKULAM REPRESENTING  
S.H.O., CHANDERA POLICE STATION.**
- 2. PUZHAKKARA MARIYAM, AGED 39 YEARS,  
D/O.FATHIMA, KAKKADAVU,  
P.O. PETTIKUNDU, KASARGOD DISTRICT.**

**R1 BY SMT. V.H. JASMINE, PUBLIC PROSECUTOR  
R2 BY ADV. SRI.A.L.GEORGE**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION  
ON 29-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

**rkj**

**APPENDIX**

**PETITIONER(S)' ANNEXURES :-**  
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**ANNEXURE-A1 : THE TRUE COPY OF THE FIRST INFORMATION REPORT IN CRIME  
NO: 601/2012 OF CHITTARIKKAL POLICE STATION.**

**ANNEXURE-A2 : THE TRUE COPY OF THE FINAL REPORT IN CRIME  
NO: 601/2012 OF CHITTARIKKAL POLICE STATION.**

**ANNEXURE-A3 : THE ORIGINAL AFFIDAVIT SWORN BY THE DEFACTO  
COMPLAINANT/2ND RESPONDENT DATED 22.07.2015.**

**RESPONDENT(S)' ANNEXURES :-**                      **NIL**  
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**//TRUE COPY//**

**P.A. TO JUDGE**

**rkj**

**P.UBAID, J.**

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**Crl.M.C.No.4797 of 2015**

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Dated this the 29<sup>th</sup> day of July, 2015

**ORDER**

The petitioners herein are the four accused in C.C. No.688 of 2013 of the Judicial First Class Magistrate Court-II, Hosdurg. 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 Section 498(A) of the Indian Penal Code on the complaint of one Puzhakkara Mariyam, who is the 2<sup>nd</sup> 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. The victim's affidavit shows that the petitioner has divorced her and that all her claims have been settled. In such 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.688 of 2013 of the Judicial First Class Magistrate Court-II, Hosdurg 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**

rkj

//TRUE COPY//

P.A. TO JUDGE