

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 10TH DAY OF AUGUST 2015/19TH SRAVANA, 1937

Cr1.MC.No. 4824 of 2015 ()

SC 756/2014 of SPECIAL COURT UNDER POCSO ACT, (SESSIONS COURT),
THALASSERY, CRIME NO. 1047/2014 OF THALIPARAMBA POLICE STATION ,
KANNUR

PETITIONER/ACCUSED:

CHEKKINTEKATH KHALID, AGED 43 YEARS
S/O. (LAT) ABDUL KHADER, CHEKKINTEKATH HOUSE
ELAMBERAM.P.O, PALLIVAYAL, KANNUR DISTRICT.

BY ADV. SRI.P.U.SHAILAJAN

RESPONDENTS/STATE & DE-FACTO COMPLAINANTS:

1. STATE OF KERALA,
REPRESENTED BY STATION HOUSE OFFICER
TALIPARAMBA POLICE STATION
THROUGH THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM-682031.
2. LUBNA.P.K,, AGED 9 YEARS
D/O.KHALID, MUTHEN VALAPPU QUARTERS, KANNUR CITY
REPRESENTED THROUGH MOTHER P.K.MAIMOONATH
W/O.KHALID, MUTHEN VALAPPU QUARTERS, KANNUR CITY
KANNUR DISTRICT-670001.
3. RENA.P.K,, AGED 6 YEARS
D/O.KHALID, MUTHEN VALAPPU QUARTERS, KANNUR CITY
REPRESENTED THROUGH MOTHER P.K.MAIMOONATH
W/O.KHALID, MUTHEN VALAPPU QUARTERS, KANNUR CITY
KANNUR DISTRICT-670001.
4. P.K.MAIMOONATH,
W/O.KHALID, MUTHEN VALAPPU QUARTERS, KANNUR CITY
KANNUR DISTRICT-670001.

R2-R4 BY ADV. SMT.D.N.NISHANI
R1 BY PUBLIC PROSECUTOR SMT.S.HYMA

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
10-08-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 4824 of 2015 ()

APPENDIX

PETITIONER'S ANNEXURES

ANNEXURE-1 TRUE COPY OF THE CHARGE SHEET IN SC.756/2014 PENDING
BEFORE THE SPECIAL COURT FOR THE OFFENCES UNDER
PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT,2012
(SESSIONS COURT) ,THALASSERY.

ANNEXURE-II TRUE COPY OF THE AFFIDAVIT SWORN BY 4TH RESPONDENT FOR
HERSELF AND ON BEHALF OF RESPONDENTS 2 AND 3 AS THEIR
MOTHER.

RESPONDENTS' ANNEXURES : NIL

//TRUE COPY//

P.A.TO JUDGE

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P. UBAID, J.

Crl.M.C. No. 4824 of 2015

Dated this the 10th day of August, 2015

ORDER

The petitioner herein is the accused in S.C.No.756/2014 of the Special Court for the trial of offences against Women and Children, Thalassery. 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 354(A) of I.P.C. and Section 11(1)r/w 12 of the Protection of Children from Sexual Offences Act 2012, on the complaint of one Maimoonath, who is the 4nd 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. The victims of offence are the respondents 2 and 3 in this proceeding. They are minors. On their behalf, their guardian has filed affidavit.

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 complainant and also the victims appeared before me, as directed by the Court, today. The complainant submitted that her husband had some psychic problems at the time of the alleged incident, but she is now happy in matrimony with her husband. The victim Lubna also submitted before me that she has no problem now, and that she is quite happy and safe with

her parents. I am well satisfied that presently there is no problem between the complainant and the petitioner, and they are now living happily with their children. In such a situation it is appropriate that the whole proceeding be closed. Continuance of the prosecution will cause problems to the couple, and also to their children.

In the result, this petition is allowed. The prosecution against the petitioner herein in S.C.No.756/2014 of the Special Court for the trial of offences against Women and Children, Thalassery, 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/-
P. UBAID, JUDGE

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