

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 30TH DAY OF JULY 2015/8TH SRAVANA, 1937

Crl.MC.No. 4836 of 2015

SC 11/2013 OF ADDITIONAL SESSIONS (ADHOC)-II COURT, ERNAKULAM

PETITIONER(S)/ACCUSED :-

1. DIJESH, AGED 30 YEARS,
S/O.NARAYANANKUTTY,
ARIPURATH HOUSE, PRANAVAM,
EDAPPALLY NORTH,
KUNNUMPURAM P.O, KOCHI-24.
2. NARAYANANKUTTY, AGED 57 YEARS,
ARIPURATH HOUSE, PRANAVAM,
EDAPPALLY NORTH, KUNNUMPURAM P.O, KOCHI-24.
3. KUMARI NARAYANANKUTTY,
AGED 55, W/O.NARAYANANKUTTY, ARIPURATH HOUSE,
PRANAVAM, EDAPPALLY NORTH, KUNNUMPURAM P.O.,
KOCHI-24.
4. DIVYA, W/O.SETHUNADH,
AGED 33, AMRITHA VILAS, KALACHOOR ROAD,
MANJUMMEL, ELOOR.
5. SETHUNADH, S/O.RAVEENDRAN,
45 YRS, AMRITHA VILAS, KALACHOOR ROAD,
MANJUMMEL, ELOOR.

BY ADV. SRI.K.V.SABU

RESPONDENT(S)/STATE & COMPLAINANT :-

1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
2. SRUTHY VIJAYAN, D/O.VIJAYAN
AGED 28 YEARS, KADAMBANATT HOUSE,
PAMBAKKUDA PO, PIRAVOM - 686 664.

R1 BY SMT.S.HYMA, PUBLIC PROSECUTOR

R2 BY ADV. SRI.M.S.VIMAL RAJ

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 30-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' ANNEXURES :-

**ANNEXURE A1 :- CERTIFIED COPY OF THE CHARGE IN S.C.NO.11/13 PENDING
BEFORE THE LEARNED ADDITIONAL SESSIONS (ADHOC-II)
COURT, ERNAKULAM.**

ANNEXURE A2 :- AFFIDAVIT FILED BY THE 2ND RESPONDENT DATED 29.05.2015.

RESPONDENT(S)' ANNEXURES :- NIL

//TRUE COPY//

PA. TO JUDGE

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P.UBAID, J.

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Crl.M.C.No.4836 of 2015

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Dated this the 30th day of July, 2015

ORDER

The petitioners herein are the five accused in S.C.No.11 of 2013 of the Additional Sessions (Adhoc-II) Court, Ernakulam. 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 120(b), 420, 498-A, 308, 354 read with Section 34 of the Indian Penal Code on the complaint of one Sruthy Vijayan, 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 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. On a perusal of the proceedings, I find that Section 308 IPC was in fact incorporated by the police in the proceedings on the basis of a purely hypothetical statement.

In the result, this petition is allowed. The prosecution against the petitioners herein in S.C.No.11 of 2013 of the Additional Sessions former (Adhoc-II) Court, Ernakulam 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