

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 31ST DAY OF JULY 2015/9TH SRAVANA, 1937

Cr1.MC.No. 4876 of 2015

IN C.C 1406/2013 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT I,
CHERTHALA

CRIME NO. 396/2013 OF KUTHIYATHODE POLICE STATION, ALAPPUZHA

PETITIONERS/ACCUSED NO.1 TO 5:

1. RAJESH KUMAR, AGED 39 YEARS,
S/O. BALAKRISHNA SHENOY, VETTAKAL GARDENS,
THIRUMALABHAGAM P.O., THURAVOOR, PIN:688540
ALAPPUZHA DISTRICT.
2. BALAKRISHNA SHENOY, AGED 77 YEARS,
S/O. VENU SHENOY, VETTAKAL GARDENS,
THIRUMALABHAGAM P.O., THURAVOOR, PIN:688540
ALAPPUZHA DISTRICT.
3. MANORAMA BHAI, AGED 75 YEARS,
W/O. BALAKRISHNA SHENOY, VETTAKAL GARDENS
THIRUMALABHAGAM P.O., THURAVOOR, PIN:688540
ALAPPUZHA DISTRICT.
4. SANTHOSH, AGED 47 YEARS,
S/O BALAKRISHNA SHENOY, VETTAKAL GARDENS,
THIRUMALABHAGAM P.O., THURAVOOR, PIN:688540
ALAPPUZHA DISTRICT.
5. VINITHA, AGED 42 YEARS,
W/O SANTHOSH, VETTAKAL GARDENS, THIRUMALABHAGAM P.O.
THURAVOOR, PIN:688540, ALAPPUZHA DISTRICT.

BY ADVS.SRI.M.B.SANDEEP
SMT.R.PRIYA
SRI.V.VISAL AJAYAN
SRI.B.SURJITH
SRI.ABHILASH JOSE
SRI.M.A.AHAMMAD SAHEER
SMT.R.ANJANA

RESPONDENTS/DEFACTO COMPLAINANT AND STATE:

1. ANITHA D, AGED 28 YEARS,
D/O DAYANANDA SHENOY, KUNNUMPURAM HOUSE,
CHALAYIL PADAM, NOCHIMA, NAD P.O.
PIN:686563.

2. STATE OF KERALA

REPRESENTED BY SUB INSPECTOR,
CHERTHALA POLICE STATION,
THROUGH PUBLIC PROSECUTOR
HIGH COURT OF KERALA, PIN:682031.

R1 BY ADV. SRI.DINESH R.SHENOY

R2 BY PUBLIC PROSECUTOR SMT.S.HYMA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 31-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 4876 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A1: COPY OF THE FINAL REPORT IN C.C NO.1406/2013 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT I, CHERTHALA.

ANNEXURE A2: AFFIDAVIT SUBMITTED BY THE 1ST RESPONDENT DATED 9.6.2015.

RESPONDENT'S ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.4876 of 2015

Dated this the 31st day of July, 2015

O R D E R

The petitioners herein are the four accused in C.C No.1406/2013 of the Judicial First Class Magistrate Court I, Cherthala. 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) r/w 34 of the Indian Penal Code on the complaint of one Anitha, who is the 1st respondent in this proceeding brought under Section 482 of the Code of Criminal Procedure. The victims affidavit shows that the parties have filed petition for divorce under Section 13(B) of the Hindu Marriage Act, and the whole dispute between them stands resolved forever. In such a situation it is appropriate that the prosecution be closed.

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 the 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. 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.

In the result, this petition is allowed. The prosecution against the petitioners herein in C.C No.1406/2013 of the Judicial First Class Magistrate Court I, Cherthala 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.

**P.UBAID
JUDGE**

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