

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. 4887 of 2015

IN SC 48/2014 OF THE SESSIONS COURT, PALAKKAD

CRIME NO. 497/2012 OF PATTAMBI POLICE STATION, PALAKKAD

PETITIONERS/ACCUSED:

1. SHIBIN,
S/O. BALASUBRAMANIAN, KARUMATHIL HOUSE, AMAYOOR,
PALAKKAD DISTRICT.
2. SHEELA,
W/O. BALASUBRAMANIAN, KARUMATHIL HOUSE, AMAYOOR,
PALAKKAD DISTRICT.
3. KRISHNANKUTTY,
S/O. KUNHUTTAN, MULAYATTUKUNNU, AMAYOOR,
PALAKKAD DISTRICT.
4. SHABEER,
S/O. MUHAMMED, AMUTHIYIL HOUSE, AMAYOOR,
PALAKKAD DISTRICT.

BY ADV. SRI.K.RAKESH

RESPONDENTS/STATE & DEFACTO COMPLAINANT:

1. THE STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-31
THROUGH THE STATION HOUSE OFFICER
PATTAMBI POLICE STATION, PALAKKAD DISTRICT.
2. RESMI,
D/O. VELAYUDHAN, ULLAT PALLIYALIL HOUSE,
MANNENGODE P.O., PULASSERY, PALAKKAD DISTRICT
PIN-678016.

R1 BY PUBLIC PROSECUTOR SMT.V.H.JASMINE

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 31-07-2015, ALONG WITH CRL.M.C NO.4900/2015 THE COURT ON THE
SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 4887 of 2015

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE A- COPY OF THE CHARGE IN CRIME NO.497/2012 OF THE
PATTAMBI POLICE STATION.

ANNEXURE B- COPY OF THE AFFIDAVIT SWORN TO BY THE 2ND RESPONDENT
DATED, 12-6-2014.

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.4887 & 4900 of 2015

Dated this the 31st day of July, 2015

O R D E R

The petitioners in Crl.M.C No.4887/2015 are the original accused Nos.1,2,5 & 6 in Crime No.497/2012 of the Pattambi Police Station, registered under Sections 366, 342, 376 r/w Section 109 of the Indian Penal Code and under Sections 3(i) (x) and 3(2)(v) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The petitioners in Crl.M.C No.4900/2015 are the accused Nos.3 and 4. The case against accused Nos.1,2,5 and 6 was first committed to the Court of Session, and now it is pending as S.C No.48/2014 before the Sessions Court, Palakkad. The case against accused Nos.3 and 4 was split up and refiled in the committal court itself as C.P No.77/2013, and their case now stands transferred to the register of long pending cases as L.P No.32/2015. The prosecution case is that the first accused enticed a girl belonging to the scheduled castes with a promise that he would marry her, he lived with her at different places as man and wife with the assistance of the others, and thus exploited her sexually and

otherwise. It is alleged that the consent given by the girl to the first accused was vitiated by a false promise made by the first accused. Now the whole prosecution is sought to be quashed on the ground that the parties have settled the whole dispute and that the first accused has already married the victim of offence. She has filed affidavit to the effect that she was not in any manner enticed or exploited by the first accused, she went with him with the object of getting married legally, and that they have undergone the ceremony of marriage, though the first accused had not, at that time, attained the age of 21 years. But now they are living happily as husband and wife. I am satisfied that the first accused and the victim are now leading a very happy matrimony, and that the complaint happened to be made, and the police has also happened to submit final report, on some misapprehension. When the victim and the main accused are now happy in matrimony it is definite that continuance of prosecution will defile their matrimony, and will definitely create problems. In such a situation, it is appropriate that the prosecution be quashed.

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 under Section 482 of the Code of Criminal Procedure in pending proceedings, if the parties have come to terms amicably, and if the court is satisfied of such a settlement or resolution of the dispute forever. Here is such a situation, and I am well satisfied that the parties are now on quite cordial terms.

In the result, these two petitions are allowed. The prosecution against the petitioners in Crl.M.C No.4887/2015 in S.C No.48/2014 of the Court of Session, Palakkad, and the prosecution against the petitioners in Crl.M.C No.4900/2015, now pending before the Judicial First Class Magistrate Court, Pattambi (L.P No.32/2015) in C.P No.77/2013 will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioners will stand released from prosecution.

**P.UBAID
JUDGE**

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