

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 3RD DAY OF AUGUST 2015/12TH SRAVANA, 1937

Crl.MC.No. 4957 of 2015 ()

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CC 265/2015 of JUDICIAL FIRST CLASS MAGISTRATE COURT- I, PONNANI
CRIME NO. 562/2014 OF PERUMPADAPPU POLICE STATION, MALAPPURAM DISTRICT
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PETITIONER/ACCUSED 1 - 3:

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- 1. ZAINUL ABDEEN, AGED 29 YEARS, S/O.HAMSA, PALLIYAKAYIL HOUSE
VELIYAMKODE AMSOM DESAM, P.O.VELIYAMKODE, PONNANI
MALAPPURAM DISTRICT.**
 - 2. HAMSA, AGED 57 YEARS, S/O.MUHAMMED HAJI, PALLIYAKAYIL HOUSE
VELIYAMKODE AMSOM DESAM, P.O.VELIYAMKODE, PONNANI
MALAPPURAM DISTRICT.**
 - 3. SAINABA, AGED 50 YEARS, W/O.HAMSA, PALLIYAKAYIL HOUSE
VELIYAMKODE AMSOM DESAM, P.O.VELIYAMKODE, PONNANI
MALAPPURAM DISTRICT.**

**BY ADVS.SRI.P.G.SURESH
SRI.G.SUDHEER (THURAVOOR)**

RESPONDENTS/COMPLAINANT:

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- 1. STATE OF KERALA
REPRESENTED BY THE S.I. OF POLICE
PERUMBADAPPU POLICE STATION, MALAPPURAM DISTRICT
THROUGH THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM.682 031**
 - 2. ADEEBA, AGED 23 YEARS, D/O.ABDUL HAFEEL, KOTTARAPPATTIL HOUSE
P.O.AKALADU, PUNNAYOOR AMSOM DESAM, CHAVAKKAD TALUK
THRISSUR DISTRICT - 680 506.**

**R2 BY ADV. SRI.RAJAN VISHNURAJ
R2 BY ADV. SRI.V.HARISH
R1 BY PUBLIC PROSECUTOR SMT. V.H. JASMINE**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 03-08-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONERS' EXHIBITS

ANNX.A1 - THE CERTIFIED COPY OF THE PRIVATE COMPLAINT FILED BY THE 2ND RESPONDENT BEFORE THE HONOURABLE JUDICIAL FIRST CLASS MAGISTRATE COURT PONNANI, MALAPPURAM AS CMP NO.5526/2014.

ANNX.A2 - THE CERTIFIED COPY OF THE FIRST INFORMATION REPORT IN CRIME NO.562/2014 OF PERUMBADAPPU POLICE.

ANNX.A3 - THE CERTIFIED COPY OF THE FINAL REPORT FILED BY THE PERUMBADAPPU POLICE BEFORE THE HONOURABLE JUDICIAL FIRST CLASS MAGISTRATE COURT, PONNANI AS CC NO.265/2015

ANNX.A4 - THE TRUE COPY OF THE AGREEMENT DATED 28.02.2015 EXECUTED IN BETWEEN THE 1ST PETITIONER AND THE 2ND RESPONDENT.

ANNX.A5 - THE AFFIDAVIT SOLEMNLY AFFIRMED BY THE 2ND RESPONDENT.

RESPONDENTS' EXHIBITS

NIL

// TRUE COP Y//

P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.4957 of 2015

Dated this the 3rd day of August, 2015

O R D E R

The petitioners herein are the three accused in C.C.265/2015 of the Judicial First Class Magistrate Court, Ponnani. 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 498A read with 34 IPC, on the complaint of one Adeeba, 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. The affidavit shows that her husband has already divorced her, and that, as a divorced lady, she has received all the benefits under the Muslim Women (Protection of Rights on Divorce) Act. In such a situation where the whole dispute stands resolved, 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 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.

In the result, this petition is allowed. The prosecution against the petitioners herein in C.C.265/2015 of the Judicial First Class Magistrate Court, Ponnani 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

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