

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 11TH DAY OF SEPTEMBER 2015/20TH BHADRA, 1937

Crl.MC.No. 4990 of 2015 ()

*CRA 122/2013 OF I ADDITIONAL DISTRICT COURT, PALAKKAD
C.M.P 801/2011 of JUDICIAL FIRST CLASS MAGISTRATE COURT, PATTAMBI
CRIME NO. 146/2011 OF THRITHALA POLICE STATION , PALAKKAD DISTRICT
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PETITIONER(S)/PETITIONERS/ACCUSED 1 TO 4:

1. MANIKANDAN, AGED 42 YEARS,
S/O. KESAVAN NAIR, CHEMMANGAD VEEDU, ENKAKKAD POST,
WADAKKENCHERY, THRISSUR.
2. KESAVAN NAIR, AGED 72 YEARS,
S/O. NARAYANAN NAIR, CHEMMANGAD VEEDU, ENKAKKAD POST,
WADAKKENCHERY, THRISSUR.
3. KARTHIAYANIAMMA, AGED 70 YEARS,
W/O. KESAVAN NAIR, CHEMMANGAD VEEDU, ENKAKKAD POST,
WADAKKENCHERY, THRISSUR.
4. SARASWATHY, AGED 49 YEARS,
D/O. KESAVAN NAIR, CHEMMANGAD VEEDU, ENKAKKAD POST,
WADAKKENCHERY, THRISSUR.

BY ADVS.SMT.T.K.USHA RANI
SRI.A.D.SHAJAN

RESPONDENTS/STATE AND DEFACTO COMPLAINANT:

1. THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.
2. NISHA, AGED 32 YEARS,
D/O. KRISHNA PANICKER, VARAMANGALATH VATTENAD,
MALA AMSAM, OTTAPPALAM, PALAKKAD.

R BY PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
11-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

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*CORRECTED AS C.C.No.269/2013 of JUDICIAL FIRST CLASS MAGISTRATE COURT,
OTTAPPALAM

APPENDIX

PETITIONER(S)' EXHIBITS:

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- ANNEXURE A1- CERTIFIED COPY OF PRIVATE COMPLAINT MC. 801/2011 FILED BEFORE THE HON'BLE JUDICIAL FIRST CLASS MAGISTRATE COURT, PATTAMBI DATED 07-03-2011 (NOW IT IS RE-NUMBERED AS C.C.269/2013 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT, OTTAPPALAM).
- ANNEXURE A2- CERTIFIED COPY OF F.I.R.NO. 146/2011 (CRIME NO.146/2011) OF TRITHALA POLICE STATION DATED 11-05-2011.
- ANNEXURE A3- TRUE COPY OF M.C. 36/2011 BEFORE THE HON'BLE JUDICIAL FIRST CLASS MAGISTRATE COURT AT PATTAMBI, DATD 07-03-2011 FILED BY THE 2ND RESPONDENT.
- ANNEXURE A4- CERTIFIED COPY OF ORDER IN M.C.NO. 36/2011 DATED 21-05-2013 OF THE HON'BLE JUDICIAL FIRST CLASS MAGISTRATE COURT AT PATTAMBI.
- ANNEXURE A5- COPY OF ORDER DATED 25-05-2015 IN CRA NO.122/2013 BEFORE THE 1ST ADDL. DISTRICT COURT PALAKKAD.
- ANNEXURE A6- CERTIFIED COPY OF THE CHARGE FRAMED AGAINST 1ST PETITIONER IN C.C.693/2011 BY THE HON'BLE JUDICIAL FIRST CLASS MAGISTRATE, PATTAMBI DATED 29-10-2012.
- ANNEXURE A7- CERTIFIED COPY OF THE CHARGE FRAMED AGAINST PETITIONERS 2 TO 4 IN C.C.693/2011 BY THE HON'BLE JUDICIAL FIRST CLASS MAGISTRATE, PATTAMBI DATED 27-09-2012.
- ANNEXURE A8- CERTIFIED COPY OF FINAL REPORT SUBMITTED BY THE TRITHALA POLICE BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT, PATTAMBI AFTER INVESTIGATION DATED 30-06-2011.
- ANNEXURE A9- CERTIFIED COPY OF MEMORANDUM OF EVIDENCE SUBMITTED BY TRITHALA POLICE BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT, PATTAMBI DATED 30-06-2011.
- ANNEXURE A10- TRUE COPY OF JOINT PETITION FILED BY 1ST PETITIONER & 2ND RESPONDENT BEFORE THE FAMILY COURT, OTTAPALAM DATED 28-05-2015.
- ANNEXURE A11- PHOTOCOPY OF ACKNOWLEDGMENT FOR MONEY ACCEPTED BY THE 2ND RESPONDENT DATED 29-05-2015.
- ANNEXURE A12- AFFIDAVIT FILED BY THE 2ND RESPONDENT DATED 31-05-2015.

RESPONDENT(S)' EXHIBITS - NIL

//TRUE COPY//

P A TO JUDGE

P. UBAID, J.

Crl.M.C.No.4990 of 2015

Dated this the 11th day of September, 2015

O R D E R

The petitioners herein are the accused in C.C. No.269/2013 of the Judicial First Class Magistrate Court, Ottappalam. 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 read with 34 IPC, on the complaint of one Nisha, 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. Her affidavit shows that the parties have parted ways, and that they have filed a joint application for divorce under Section 13B of the Hindu Marriage Act before the Family Court, Ottappalam. It is submitted that all the dues and liabilities stand settled. 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 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. 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.269/2013 of the Judicial First Class Magistrate Court, Ottappalam 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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"C.C.No.269/2013" occurring in the first sentence of paragraph 1 at page 1 and second sentence of operative portion at page 2 of the final order dated 11.09.2015 in Crl.M.C.4990/2015 is corrected and substituted as "C.C.No.269/2014" as per order dated 02.12.2015 in Crl.M.A.No.11051/2015 in Crl.M.C.4990/2015.

Sd/- Registrar (Judicial)