

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 5TH DAY OF AUGUST 2015/14TH SRAVANA, 1937

Cr1.MC.No. 5035 of 2015

IN CC 89/2013 of CHIEF JUDL.MAGISTRATE, ERNAKULAM

CRIME NO. 2764/2012 OF ERNAKULAM CENTRAL POLICE STATION ,
ERNAKULAM

PETITIONERS/ACCUSED NOS.1 TO 3:

1. SHAMEEMA @ SHERMY, AGED 31 YEARS,
W/O.SANTHOSH, THANSALNA HOUSE, GANDHI NAGAR COLONY,
THEKKADY, KUMALY VILLAGE, IDUKKI (DISTRICT)
2. SHANAVAS @ RAFEEQ, AGED 37 YEARS,
S/O.HAMEED KUNJU, EDAVANATTU PADINJARETHARA,
NELLIKULAM, KULASEKHARAPURAM VILLAGE,
KARUNAGAPPILLY TALUK, KOLLAM DISTRICT.
3. MUJEEB, AGED 31 YEARS,
S/O.MUHAMED, MANNARATH HOUSE, KEEZHUMADUKARA,
ALUVA VILLAGE, ERNAKULAM DISTRICT.

BY ADVS.SRI.ANIL K.MOHAMMED
SRI.V.S.MANSOOR

RESPONDENTS/COMPLAINANT & CHARGE WITNESS NO.1/DEFACTO
COMPLAINANT:

1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.
2. SASIKALA,
W/O.HARI, SATHYABHAVAN HOUSE, GANDHINAGAR COLONY,
THEKKADY, KUMALY VILLAGE, IDUKKI DISTRICT-685 306.

R2 BY ADV. SRI.S.MOHAMMED AL RAFI
R1 BY PUBLIC PROSECUTOR SMT.V.H JASMINE

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 05-08-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

Cr1.MC.No. 5035 of 2015

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE A : PHOTOCOPY OF CHARGE SHEET IN CC NO.89 OF 2013 OF
CHIEF JUDICIAL MAGISTRATE COURT, ERNAKULAM.

ANNEXURE B : AFFIDAVIT DT 22-7-2014 SWORN BY 2ND RESPONDENT.

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

ab

P.UBAID, J.

Crl.M.C No.5035 of 2015

Dated this the 5th day of August, 2015

O R D E R

The petitioners herein are the three accused in C.C No.89/2013 of the Chief Judicial Magistrate 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 406, 420, 343, 120(B), and 506(i) r/w 34 of the Indian Penal Code, and Sections 5, 6(3) and 9 of the Immoral Traffic (Prevention) Act on the complaint of one Sasikala, 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 fact on a perusal of the materials, I find that the very sustainability of the prosecution is really suspicious. It is not known how a woman who volunteered sexual intercourse could complain of cheating that payment was not made, and why she happened to be not arraigned as accused. Anyway, the whole dispute stands resolved, I am find that the victim will not in any manner help

or support the prosecution if the case against the petitioners goes to trial. It is appropriate that the whole proceeding be quashed, so that the precious time of the court could be saved.

3. 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 further 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 the result, this petition is allowed. The prosecution against the petitioners herein in C.C No.89/2013 of the Chief Judicial Magistrate 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.

**P.UBAID
JUDGE**

ab