

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. 5039 of 2015

IN C.P 25/2013 of ADDL.C.J.M., ERNAKULAM

CRIME NO. 1958/2012 OF HILL PALACE POLICE STATION, ERNAKULAM

PETITIONERS/ACCUSED NO.1&2:

1. RITHIN IYPE MATHAI,
S/O.MATHAI, MANNULLIL VEETIL, HILL PALACE KARA,
THIRUVANKULAM VILLAGE, ERNAKULAM.
2. MATHAI M.I,
S/O.M.V.IYPE, MANNULLIL VEETIL, HILL PALACE KARA,
THIRUVANKULAM VILLAGE, ERNAKULAM.

BY ADV. SRI.M.J.THOMAS

RESPONDENTS/COMPLAINANT AND STATE:

1. SHEEJA, AGED 31 YEARS,
W/O.SANTHOSH, THATHANATTU HOUSE, CHITRAPUZHA,
IRUMPANAM P.O., THIRUVANKULAM, ERNAKULAM DISTRICT.
2. THE STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

R1 BY ADV. SRI.K.P.MADHU

R2 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. 5039 of 2015

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE 1: COPY OF THE COMPLAINT FILED BY R1.

ANNEXURE 2: COPY OF THE FIR IN CRIME NO.1958/2012 OF
TRIPUNITHURA POLICE STATION.

ANNEXURE 3: COPY OF THE REFER REPORT.

ANNEXURE 4: CERTIFIED COPY OF THE COMMITTAL ORDER IN CP
25/2013.

ANNEXURE 5: AFFIDAVIT SWORN IN BY R1.

ANNEXURE 6: COPY OF THE ORDER 22-1-14 IN CRL.M.C NO. 681/14
PASSED BY THIS HON'BLE COURT.

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.5039 of 2015

Dated this the 5th day of August, 2015

O R D E R

The petitioners herein are the two accused in C.P No.25/2013 of the Additional 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 354, 294(b) r/w 34 of the Indian Penal Code on the complaint of one Sheeja. Subsequently the offence under Sections 3(1)(x) and (xi) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) (for short 'SC/ST Act') Act were incorporated. The defacto complainant is the 1st 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. On a perusal of the materials, including the complaint I find that there is nothing definite in this case for a prosecution under the provisions of the SC/ST Act. A mere

abuse of a member of Scheduled Caste or Scheduled Tribe will not constitute such an offence. Anyway, the parties have now come to terms and the whole dispute stands resolved forever. Continuance of the proceeding in such a circumstance of amicable settlement will cause harm and hardship to both the parties.

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 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.P No.25/2013 of the Additional 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**

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