

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 6TH DAY OF AUGUST 2015/15TH SRAVANA, 1937

Crl.MC.No. 5054 of 2015

SC 638/2014 of D.C & SESSIONS COURT, THIRUVANANTHAPURAM

CRIME NO. 136/2013 OF VITHURA POLICE STATION, THIRUVANANTHAPURAM

PETITIONER/ACCUSED :-

**MUHAMMED ZIYAD, S/O.MAHIN KANNU,
AGED 30 YEARS, ZIYAD MANZIL,
MUKKUVANTHODE, THOLIKKODE VILLAGE,
NEDUMANGAD, THIRUVANANTHAPURAM,
PRESENTLY RESIDING AT SAFEENA MANZIL,
ROADARIKATHU, MUKKUVANTHODE, THOLIKKODE VILLAGE,
NEDUMANGAD, THIRUVANANTHAPURAM.**

BY ADV. SRI.LATHEESH SEBASTIAN

RESPONDENTS/STATE & COMPLAINANTS :-

- 1. STATE OF KERALA,
REPRESENTED BY THE DIRECTOR OF
PUBLIC PROSECUTIONS,
HIGH COURT OF KERALA,
ERNAKULAM - 682 031.**
- 2. SUB INSPECTOR OF POLICE,
VIDURA POLICE STATION,
THIRUVANANTHAPURAM DISTRICT - 695004.**
- 3. SHAMEENA, D/O. SUMAYYA, AGED 19 YEARS,
NAVAS MANZIL, IRAPPIL, PULIMOODU, THOLIKKODE VILLAGE,
THIRUVANANTHAPURAM DISTRICT,
PRESENTLY RESIDING AT SAFEENA MANZIL,
ROADARIKATHU, MUKKUVANTHODE, THOLIKKODE VILLAGE,
NEDUMANGAD, THIRUVANANTHAPURAM - 695101.**

- 4. SUMAYYA, D/O.SULEKHA BEEVI,
AGED 34 YEARS, NAVAS MANZIL, IRAPPIL,
PULIMOODU, THOLIKODE VILLAGE,
THIRUVANANTHAPURAM - 695102.**

**R BY SMT.S.HYMA, PUBLIC PROSECUTOR
R3 & R4 BY ADV. SRI.R.ARUN**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 06-08-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' ANNEXURES :-

ANNEXURE A1 : TRUE COPY OF THE FIR IN CRIME NO.136/2013 OF THE VIDURA POLICE STATION.

ANNEXURE A2 : TRUE COPY OF THE FINAL REPORT OF THE 2ND RESPONDENT IN CRIME NO.136/2013 OF THE THE VIDURA POLICE STATION.

ANNEXURE A3 : TRUE COPY OF THE MARRIAGE CERTIFICATE ISSUED BY THE SECRETARY OF THEVANPARA MUSLIM JAMA-ATH, THOLICODE DATED 22.04.2014.

ANNEXURE A4 : TRUE COPY OF THE MARRIAGE CERTIFICATE ISSUED BY THE REGISTRAR OF MARRIAGE DATED 17.05.2014.

ANNEXURE A5 : TRUE COPY OF THE BIRTH CERTIFICATE ISSUED BY THE REGISTRAR OF BIRTHS & DEATHS DATED 26.06.2015.

ANNEXURE A6 : AFFIDAVIT OF THE 3RD RESPONDENT.

ANNEXURE A7 : AFFIDAVIT OF THE 4TH RESPONDENT.

RESPONDENT(S)' ANNEXURES :- NIL

//TRUE COPY//

P.A. TO JUDGE

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P.UBAID, J.

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Crl.M.C.No.5054 of 2015

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Dated this the 6th day of August, 2015

ORDER

The petitioner herein is the accused in S.C.No.638 of 2014 of Sessions Court, Thiruvananthapuram. He seeks orders quashing the prosecution on the ground of amicable settlement of the whole dispute between him and the de facto complainant. The offences involved in the case are under Sections 363 and 366 of the Indian Penal Code. Crime was registered on the complaint of one Sumayya, who is the 4th 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 victim of offence is the 3rd respondent. She has also 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 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.

3. The victim's affidavit shows that the petitioner has already married her, and that she is living happily with him along with their son born in the wedlock. I am satisfied that the parties are now happy in matrimony, and continuance of the prosecution will definitely cause hardship and embarrassment to the couple. In such a situation, it is appropriate that the pending prosecution be quashed.

In the result, this petition is allowed. The prosecution against the petitioner herein in S.C.No.638 of 2014 of Sessions Court, Thiruvananthapuram will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioner will stand released from prosecution, and the bail bond, if any, executed by him will stand discharged.

Sd/-
P.UBAID
JUDGE

rkj

//TRUE COPY//

P.A. TO JUDGE