

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. 5089 of 2015 ()

**AGAINST THE ORDER IN CC 1590/2013 of J.M.F.C.-II, HOSDRUG
CRIME NO. 114/2013 OF BEKAL POLICE STATION , KASARGOD**

PETITIONER(S):

**SAMEER KUNNIL, AGED 35 YEARS,
S/O LATE FAKRU KUNNIL, MASTHINGUDE HOUSE,
PALLIKKARA (PO), KASARAGOD DISTRICT.**

BY ADV. SRI.JAWAHAR JOSE

RESPONDENT(S):

- 1. THE STATE OF KERALA; REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. ASIYATH SHARFANA, AGED 26 YEARS,
D/O ASHRAFF, RESIDING AT 'ARAFAT COTTAGE',
MOVVAL (PO), PALLIKKARA (PO), KASARAGOD DISTRICT. PIN 671 12**

**R2 BY ADV. SRI.V.VINAY MENON
R1 BY PUBLIC PROSECUTOR SMT.S.HYMA**

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

AD

Crl.MC.No. 5089 of 2015 ()

APPENDIX

PETITIONER'S EXHIBITS

ANNEXURE-A: THE CERTIFIED COPY OF PRIVATE COMPLAINT

ANNEXURE-B: THE CERTIFIED COPY OF FIR

ANNEXURE-C: THE CERTIFIED COPY OF FINAL REPORT

**ANNEXURE-D: THE COPY OF AGREEMENT ENTERED BETWEEN THE PETITIONER
AND THE 2ND RESPONDENT EVIDENCING SETTLEMENT**

**ANNEXURE-E: THE COPY OF AFFIDAVIT SWEARED BY THE 2ND RESPONDENT
EVIDENCING SETTLEMENT.**

RESPONDENT'S EXHIBITS

NIL

//TRUE COPY//

P.A. TO JUDGE

AD

P.UBAID, J.

Crl.M.C No.5089 of 2015

Dated this the 6th day of August, 2015

ORDER

The petitioner is the accused in C.C.No.1590/2013 of the Judicial First Class Magistrate Court-II, Hosdurg, in Kasaragod District. He seeks orders quashing the prosecution on the ground of amicable settlement of the whole dispute between him and the de facto complainant. Crime in this case was registered under Section 498-A of the Indian Penal Code on the complaint of one Smt.Asiyath Sharfana 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 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 her husband has already divorced her and she has received all the benefits under the law from the petitioner, as a divorced woman. Thus the whole dispute stands resolved for ever.

In the result, this petition is allowed. The prosecution against the petitioner herein in C.C.No.1590/2013 of the Judicial First Class Magistrate's

Court-II, Hosdurg, in Kasaragod District 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

AD