

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 12TH DAY OF AUGUST 2015/21ST SRAVANA, 1937

CrI.MC.No. 4078 of 2013 ()

AGAINST CC 2008/2007 of ADDL.CHIEF JUDICIAL MAGISTRATE COURT,
ERNAKULAM
CRIME NO. 133/1995 OF HILL PALACE POLICE STATION , ERNAKULAM

PETITIONER(S)/ACCUSED NO.1:

MRS.R.JAYALAKSHMI, AGED 55,
W/O.LATE DR.PARAMESWARAN, TRUSTEE
DEVI ACADEMY EDUCATIONAL TRUST
REGISTERED OFFICE AT 1/5 ALAPPAKKAM ROAD
VALASAVAKKAM, MADRAS-600 087

BY ADV. SRI.M.R.ARUNKUMAR

RESPONDENT(S)/COMPLAINANT, DEFACTO COMPLAINANT AND CHARGE
WITNESSES 2, 3 AND 4:

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1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.
 2. VARGHESE, S/O.VARKEY
NELLIKAYAM HOUSE
MITTAYIKKUNNU DESHAM THALAYOLAPARAMBU VILLAGE
KOTTAYAM - 686 605
 3. LATHA DEVI, W/O.MOHANAN
PUTHEN MADAM, KARIPPAI JUNCTION
BHAAVANS ROAD NADAMA VILLAGE, EROOR SOUTH PO
ERNAKULAM DISTRICT 682 306.
 4. G. SREEKUMARY, W/O.RAMACHANDRAN C., AGED 49 YEARS
SREEVILAS, PADIMON PO, MALLAPPALLY
PATHANAMTHITTA DISTRICT - 689 587.
 5. SREESHKUMAR S. KAMMATH
S/O.S.A.KAMMATH, SUDHA VEETIL
NEAR KALAMMASSERRY PANCHAYATH OFFICE
(NOW OFFICE OF KALAMMASSERRY MUNICIPALITY)
EDAPPALLY NORTH VILLAGE
ERNAKULAM DISTRICT - 682 024.

R3 BY ADV. SRI.P.SHAMMI NAVAS
R4 BY ADV. SRI.GEORGE VARGHESE (MANACHIRACKEL)
R1 BY PUBLIC PROSECUTOR SMT.S.HYMA

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 12-08-
2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

ANNXURE A1 - CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.133 OF 1995 IN C.C. NO.2008 OF 2007 OF HILL PALACE POLICE STATION, THRIPIUNITHURA.

ANNEXURE A2 - ORIGINAL OF THE AFFIDAVIT SWORN TO BY THE 3RD RESPONDENT DATED 10-9-2013

ANNXURE A3 - COPY OF THE AFFIDAVIT SWORN TO BY THE 4TH RESPONDENT DATED 10-9-2013

RESPONDENT(S)' EXHIBITS

/TRUE COPY/

P.S TO JUDGE

P.UBAID, J.
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**Crl.M.C No.4078 of 2013**  
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Dated this the 12th August, 2015

ORDER

The petitioner herein is the second accused in C.C No.2008 of 2007 of the Additional Chief Judicial Magistrate's Court, Ernakulam. The said prosecution involving the offences under Sections 406 and 420 of Indian Penal Code is sought to be quashed under Section 482 of the Code of Criminal Procedure, on the ground of amicable settlement between the parties. The 1st accused is none other than the husband of the petitioner herein. Pending the proceedings, he died, and thus the prosecution against him is abated. The 2nd respondent herein is the complainant, and the respondents 3 to 5 are the other victims of offence. The case of the petitioner is that, she has settled the whole dispute with all the victims, and she has made payment of the amounts due to the respondents 3 and 4. The second respondent did not turn up in spite of notice. The respondents 3 and 4 have filed affidavit to the effect that they have settled the whole dispute with the accused, they

have received the money due from the petitioner, and that they have no grievance or complaint now. The amount due to the 5th respondent as per the final report is ₹85,000/-. As directed by this Court on 12.9.2013, the petitioner has made deposit of ₹ 85,000/- in the court below on 7.12.2013. The 5th respondent is absent in spite of the possible steps taken by the petitioner including paper publication. It appears that the respondents 1 to 5 are not interested in the prosecution. I am well satisfied that the petitioner has settled the whole dispute with the victims including the 2nd respondent, and that nothing now remains to be paid to any of them. The amount due to the 5th respondent is in court deposit as directed by this Court. In such a situation, the prosecution can be quashed under Section 482 of the Code of Criminal Procedure. I am well satisfied that continuance of the prosecution will not serve any purpose, other than wasting the precious time of the trial court.

In the result, this petition is allowed. The prosecution against the petitioner herein in C.C No.2008 of 2007 of the Additional Chief Judicial Magistrate's Court, Ernakulam will

stand quashed under Section 482 of the Code of Criminal Procedure. As regards the amount of ₹85,000/- in court deposit, appropriate orders can be passed by the trial court, when claim is made by the 5th respondent.

**Sd/-
P.UBAID
JUDGE**

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/True copy/

P.S to Judge