

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 23RD DAY OF SEPTEMBER 2015/1ST ASWINA, 1937

Cr1.MC.No. 5217 of 2015

IN CC 713/2013 of ADDITIONAL CHIEF JUDICIAL MAGISTRATE COURT,
(E&O), ERNAKULAM

PETITIONERS/ACCUSED NOS. 1 TO 4:

1. MIDHUN LAL MITHRA, AGED 28 YEARS,
S/O.T.M.VIJAYAKUMAR, THALAYINATHUNDIYIL HOUSE,
CHILAVANNOOR ROAD, KADAVANTHARA P.O,
ERNAKULAM - 682 020.
2. T.M.VIJAYAKUMAR, AGED 64 YEARS,
S/O.MILAN, THALAYINATHUNDIYIL HOUSE, CHILAVANNOOR ROAD,
KADAVANTHARA P.O, ERNAKULAM - 682 020.
3. SATHI, AGED 61 YEARS,
W/O.T.M.VIJAYAKUMAR, THALAYINATHUNDIYIL HOUSE,
CHILAVANNOOR ROAD, KADAVANTHARA P.O.
ERNAKULAM - 682 020.
4. DAMAYANTHI, AGED 58 YEARS,
D/O.KANNAN, THALAYINATHUNDIYIL HOUSE,
CHILAVANNOOR ROAD, KADAVANTHARA P.O.
ERNAKULAM - 682 020.

BY ADVS.SRI.GEO PAUL

SRI.SANU MATHEW
SRI.RADHIKA RAJASEKHARAN P.
SRI.C.R.PRAMOD
SRI.S.ASHOK KUMAR.
SRI.LENIN P. SUKUMARAN

RESPONDENTS/DEFACTO COMPLAINANT & STATE:

1. LINJU V.K, AGED 26 YEARS,
D/O.KUMARAN, VALIYAPADATH HOUSE,
NERRIKODE P.O, ERNAKULAM PIN - 683 511.
2. STATE OF KERALA
REPRESENTED BY SUB INSPECTOR,
TOWN SOUTH POLICE STATION BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA. PIN - 682 031.

R1 BY ADV. SMT.P.I.SHAMLATH

R2 BY PUBLIC PROSECUTOR SRI.JUSTIN JACOB

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
23-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 5217 of 2015

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE-A1: COPY OF THE AGREEMENT.

ANNEXURE-A2: COPY OF THE ORDER DATED 26.9.2012 BY THE CHIEF
JUDICIAL MAGISTRATE, ERNAKULAM IN MC. NO.6/2012

ANNEXURE-A3: COPY OF THE RECEIPTS

ANNEXURE-A3(A) : COPY OF RECEIPT

ANNEXURE-A4: COPY OF THE CHARGE SHEET IN C.C.NO.713/2013 ON
THE FILES OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE COURT (E.O) ,
ERNAKULAM.

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.5217 of 2015

Dated this the 23rd day of September, 2015

O R D E R

The petitioners herein are the four accused in C.C No.713/2013 of the Additional Chief Judicial Magistrate Court (E.O), 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 Section 498(A) r/w 34 of the Indian Penal Code on the complaint of one Linju, who is the first respondent in this proceeding brought under Section 482 of the Code of Criminal Procedure. The victim's affidavit shows that the whole matrimonial dispute stands resolved forever, and that the marriage also dissolved by a decree in terms of the settlement. I am well satisfied that the dues also stand settled. In such a situation, it is appropriate that the prosecution be quashed.

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 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 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.C No.713/2013 of the Additional Chief Judicial Magistrate Court (E.O), 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.

**Sd/-
P.UBAID
JUDGE**

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