

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

Crl.MC.No. 5295 of 2015

CC 848/2012 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-I, ATTINGAL

CRIME NO. 44/2012 OF POTHANCODE POLICE STATION , THIRUVANANTHAPURAM

PETITIONER(S)/ACCUSED 1 TO 3 :-

- 1. SURESH GOPI , 28 YEARS,
S/O. GOPINATHAN NAIR, BEENA BHAVAN, IDAKKONAM,
KOLIYAKKODE, THIRUVANANTHAPURAM DISTRICT.**
- 2. GOPINATHAN NAIR, AGED 58 YEARS.
S/O. NARAYANAN NAIR, BEENA BHAVAN, IDAKKONAM,
KOLIYAKKODE, THIRUVANANTHAPURAM DISTRICT.**
- 3. BEENAKUMARI, AGED 48 YEARS,
W/O. GOPINATHAN NAIR, BEENA BHAVAN, IDAKKONAM,
KOLIYAKKODE, THIRUVANANTHAPURAM DISTRICT.**

BY ADV. SRI.AJAYA KUMAR. G

RESPONDENT(S)/STATE/DEFACTO COMPLAINANT :-

- 1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. SAJITHA KUMARI, AGED 27 YEARS,
D/O. VATHSALAKUMARI AMMA, MANIMANDIRAM, AYIROORPARA,
VEMBAYAM, THIRUVANANTHAPURAM DISTRICT.**

R1 BY SMT.V.H.JASMINE, PUBLIC PROSECUTOR

R2 BY ADV. SRI.M.R.SARIN

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 12-08-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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Crl.MC.No. 5295 of 2015

APPENDIX

PETITIONER(S)' ANNEXURES :-

**ANNEXURE 1 : CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO. 44/2012 OF
POTHANCODE POLICE STATION.**

ANNEXURE 2 : AFFIDAVIT SWORN BY THE 2ND RESPONDENT.

RESPONDENT(S)' ANNEXURES :- NIL

//TRUE COPY//

P.A. TO JUDGE

rkj

P.UBAID, J.

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Crl.M.C.No.5295 of 2015

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Dated this the 12th day of August, 2015

ORDER

The petitioners herein are the three accused in C.C.No.848 of 2012 of the Judicial First Class Magistrate Court-I, Attingal. 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 498(A) and 34 of the Indian Penal Code on the complaint of one Sajitha Kumari, 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. 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 she and her husband have parted ways, and they have filed joint application for divorce under Section 13(B) of the Hindu Marriage Act. The whole dispute stands resolved forever. In such a situation, it is appropriate that the pending prosecution be quashed.

In the result, this petition is allowed. The prosecution against the petitioners herein in C.C.No.848 of 2012 of the Judicial First Class Magistrate Court-I, Attingal 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

rkj

//TRUE COPY//

P.A. TO JUDGE