

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 3RD DAY OF SEPTEMBER 2015/12TH BHADRA, 1937

Crl.MC.No. 5474 of 2015 ()

CRIME NO. 548/2014 OF KOLLAM EAST POLICE STATION, KOLLAM DISTRICT

PETITIONER/ACCUSED:

1. **GOPAKUMAR @ KANNAN, AGED 27 YEARS**
S/O.GOPALAKRISHNAN, VELIYIL VEEDU, ERAVIPURAM
KOLLAM DISTRICT, NOW RESIDING AT SARGGADHARA NAGAR
THEKKEVILA CHERRY, MUNDAKKAL VILLAGE, KOLLAM DISTRICT.
2. **SURESH, AGED 30 YEARS**
S/O.SADASIVAN PILLAI, VELIYIL VEEDU, ERAVIPURAM
KOLLAM DISTRICT, NOW RESIDING AT SARGGADHARA NAGAR
THEKKEVILA CHERRY, MUNDAKKAL VILLAGE, KOLLAM DISTRICT.
3. **MALLIKA, AGED 50 YEARS**
W/O.GOPALAKRISHNAN, VELIYIL VEEDU, ERAVIPURAM
KOLLAM DISTRICT, NOW RESIDING AT SARGGADHARA NAGAR
THEKKEVILA CHERRY, MUNDAKKAL VILLAGE, KOLLAM DISTRICT.
4. **MANJU, AGED 26 YEARS**
D/O.MALLIKA, VELIYIL VEEDU, ERAVIPURAM
KOLLAM DISTRICT, NOW RESIDING AT SARGGADHARA NAGAR
THEKKEVILA CHERRY, MUNDAKKAL VILLAGE, KOLLAM DISTRICT.

BY ADVS.SMT.S.SEETHA
SMT.RENY ANTO

RESPONDENTS/DE-FACTO COMPLAINANT & STATE:

1. **STATE OF KERALA, REPRESENTED BY THE**
SUB INSPECTOR OF POLICE, KOLLAM EAST POLICE STATION
THOURGH THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM-682 031.
2. **NITHYAMOL, AGED 28 YEARS**
D/O.VALSALA, S.S.VILLA, NATIONAL NAGAR-122
VAYALITHOPPU, POLAYATHODE P.O., VADAKKEVILA VILLAGE
KOLLAM DISTRICT-691 122.

R2 BY ADV. SRI.PRATHEESH.P

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 03-09-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONERS' EXHIBITS

**ANNEXURE-1. TRUE COPY OF THE FIR WITH FIS IN CRIME NO.548/2011 OF
KOLLAM EAST POLICE STATION.**

**ANNEXURE-2. TRUE COPY OF THE AFFIDAVIT SWORN BY THE 2ND
RESPONDENT REGARDING COMPROMISE DATED 13/8/2015.**

RESPONDENTS' EXHIBITS

NIL

TRUE COPY

PA. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.5474 of 2015

Dated this the 3rd day of September, 2015

O R D E R

The petitioners seek orders quashing the F.I.R and further proceedings in Crime No.548/2014 of the Kollam East Police Station, registered under Sections 376, 323, 506(i) and 34 IPC 3(1)(xi) and 3(2)(V) of the SC/ST (Prevention of Atrocities) Act, on the complaint of one Nithyamol. Orders are sought on the ground of amicable settlement of the whole dispute between the accused and the de facto complainant out of court. The de facto complainant Nithyamol 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. The victim appeared in court along with the 1st petitioner, and they submitted that they are leading a very happy matrimonial life as husband and wife. On interacting with them, I find that the complaint happened to be made by the victim on some misapprehension when the 1st petitioner caused some delay in the

proposed marriage. Any way, the whole dispute stands resolved forever. In such a situation, continuance of prosecution will definitely defile their matrimony. I also find that this not in fact a case of rape. Any way, the whole dispute stands resolved forever, and the victim does not want to prosecute the matter.

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 prosecution; be it at the crime stage or at the trial stage or even at the appellate or revision stage; if the parties have really settled the whole dispute, or if continuance of prosecution will not serve any purpose. Here, I find a real case of settlement between the parties, and I also find that continuance of prosecution in such a situation will not serve any purpose other than wasting the precious time of the court, when the case ultimately comes before the court.

In the result, this petition is allowed. The F.I.R and further proceedings in Crime No.548/2014 of the Kollam East Police Station will stand quashed under Section 482 of the Code of Criminal Procedure.

Sd/-

P. UBAID, JUDGE

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