

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 10TH DAY OF SEPTEMBER 2015/19TH BHADRA, 1937

Crl.MC.No. 5666 of 2015 ()

**SC 255/2015 of DISTRICT & SESSIONS COURT, KASARAGOD
CRIME NO. 489/2014 OF MANJESWARAM POLICE STATION, KASARAGOD DISTRICT**
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PETITIONER(S)/ACCUSED:

**MOHAMMED SAKARIA P.,
S/O. ABDULLA, RIFA MANZIL, SUNNADA,
BAYAR, CHIPPAR GRAMAM, KASARAGOD DISTRICT.**

BY ADV. SRI.SOJAN MICHEAL

RESPONDENT(S)/STATE & DEFACTO COMPLAINANT:

**1. STATE OF KERALA,
(INSPECTOR OF POLICE,
KUMBLA -CRIME NO.489/2014 OF MANJESWAR POLICE STATION)
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM , KOCHI- 682 031.**

**2. THULASI.C.
D/O. KRISHNAPPA POOJARI, CHAKKARAGULI HOUSE, SUNNADA,
MULIGADE, CHIPPAAR GRAMAM. 671 123.
KASARAGOD DISTRICT.**

**R2 BY ADV. SRI.NISHIL.P.S.
R BY PUBLIC PROSECUTOR**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
10-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

SD

Crl.MC.No. 5666 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS:

- A1. TRUE COPY OF THE F.I.R DATED 06.08.2014 IN CRIME NO. 489/2014 OF MANJESWARAM POLICE STATION.**
- A2. TRUE COPY OF THE 161 STATEMENT DATED 06.08.2014 OF THE 2ND RESPONDENT.**
- A3. CERTIFIED COPY OF THE FINAL REPORT DATED 15.11.2014 IN CRIME NO. 489/2014 OF MANJESWARAM POLICE STATION.**
- A4. AFFIDAVIT DATED 30.07.2015 SWORN BY THE 2ND RESPONDENT.**

RESPONDENT(S)' EXHIBITS - NIL

//TRUE COPY//

P.A TO JUDGE

P. UBAID, J.

Crl.M.C.No.5666 of 2015

Dated this the 10th day of September, 2015

O R D E R

The petitioner herein is the accused in S.C.No.255/2015 of the Sessions Court, Kasaragod. 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 Sections 341, 324, 506(i) and 376 read with 34 IPC, on the complaint of one Thulasi, 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. The victim of offence appeared before me as directed by the court, and explained the circumstances in which she happened to prefer a complaint against the petitioner. She submitted that she was only assaulted by the petitioner, and she was not subject to sexual intercourse by him either by force or with consent. She affirmed before me that nothing of that sort had happened to her, and that she made

a complaint against the petitioner as instigated and compelled by some politicians, who are on enmical terms with the petitioner on political grounds. The victim's affidavit also shows that nothing had in fact happened as alleged in the complaint, and that her complaint before the police was only the product of a political agenda designed by the political opponents of the petitioner. She is definite that she was not molested by the petitioner, or outraged by him. Only an incident of assault had occurred, but the rivals of the petitioner made use of it to make a case against him, and they compelled her to make a complaint of rape. I believe the versions of the victim in open court, and I find that this is not in fact a case of rape. The victim also submitted before me that she is now married by another person, and that she is now living quite happily with him. I am well satisfied that continuance of this unnecessary prosecution will cause embarrassment to her, and may even defile her matrimony. 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 further proceedings/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 petitioner/petitioners herein in S.C.No.255/2015 of the Sessions Court, Kasaragod 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

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