

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 1ST DAY OF OCTOBER 2015/9TH ASWINA, 1937

Cr1.MC.No. 5863 of 2015

CRIME NO. 1964/2014 OF ERNAKULAM CENTRAL POLICE STATION,
ERNAKULAM

PETITIONER/ACCUSED:

ANU GEORGE, AGED 26 YEARS,
S/O.GEORGE KUTTY, C.C.NO.7/229/K8,
STAR HOMES,
BLOCK NO.6, CHATHARI, TRIPUNITHURA,
ERNAKULAM-682301.

BY ADV. SRI.P.V.VIBIN

RESPONDENTS/STATE AND DEFACTO COMPLAINANT:

1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, PIN-682031.
2. CIRCLE INSPECTOR OF POLICE,
CENTRAL POLICE STATION, ERNAKULAM - 682 018.
3. ATHIRA T.R, AGED 22 YEARS,
D/O.RAJENDRAN, THEKKAYYIL HOUSE,
KANNADIPOYIL P.O.
BALUSSERI, KOZHIKODE-673612.

R3 BY ADV. SRI.P.Z.NIJAZ

R1 BY PUBLIC PROSECUTOR SMT.SHEEBA M.T

THIS CRIMINAL MISC. CASE HAVING COME UP FOR
ADMISSION ON 01-10-2015, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING:

Cr1.MC.No. 5863 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE-A- CERTIFIED COPY OF THE FIR AND FIS. IN CRIME
NO. 1964 /2014 OF CENTRAL POLICE STATION, ERNAKULAM WHICH
IS PENDING BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE
COURT-II, ERNAKULAM

ANNEXURE-B- COPY OF THE MARRIAGE CERTIFICATE DATED
9.3.2015 ISSUED TO THE PETITIONER.

ANNEXURE-C- ORIGINAL AFFIDAVIT OF THE 3RD RESPONDENT/DE-
FACTO COMPLAINANT.

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

ab

P.UBAID, J.

Crl.M.C No.5863 of 2015

Dated this the 1st day of October, 2015

O R D E R

The petitioner seeks orders quashing the F.I.R and further proceedings in Crime No.1964/2014 of the Ernakulam Central Police Station, registered under Section 376 of the Indian Penal Code on the complaint of one Athira. 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 Athira is the third respondent in this proceeding brought under Section 482 of the Code of Criminal Procedure. The victim's affidavit shows that the petitioner has already married her under the Special Marriage Act. Annexure B is copy of the marriage certificate issued under the Special Marriage Act. On a perusal of the materials, including the complaint in this case, I find that this is not really a case of rape. The petitioner and the third respondent had been in love for sometime, and everything that happened between them was in fact consensual. Anyway, due to some misapprehension a complaint happened to be filed by the third respondent. Now everything stands settled, and the victim has now become the

wife of the petitioner. In such a situation, continuance of prosecution will cause embarrassment to them, and it may even defile their happy matrimony. It is appropriate that the pending 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; be it at the crime stage or at the trial stage or even at the appellate or revisional stage; if the parties have really settled the whole dispute, or if continuance of the 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.1964/2014 of the Ernakulam Central Police Station will stand quashed under Section 482 of the Code of Criminal Procedure.