

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 1ST DAY OF SEPTEMBER 2015/10TH BHADRA, 1937

Crl.MC.No. 5901 of 2015

C.C.NO.350/2015 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, NILAMBUR

CRIME NO. 410/2014 OF POTHUKALLU POLICE STATION , MALAPPURAM

PETITIONER/ACCUSED :-

**RIYAS BABU, AGED 40 YEARS,
S/O. MOHAMMED, PALAKKAPARAMBAN HOUSE,
PATHIRIPPADAM, UPPADA, CHUNGATHARA,
NILAMBUR TALUK, MALAPPURAM DISTRICT.**

BY ADV. SRI.P.SAMSUDIN

RESPONDENTS/STATE AND DE-FACTO COMPLAINANT :-

- 1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM – 682 031.
(IN CRIME NO.410/2014 OF POTHUKALLU POLICE STATION
IN MALAPPURAM DISTRICT).**
- 2. SULFATH, AGED 30 YEARS,
W/O.YUSUF, KALATHINGAL HOUSE,
UPPADA – 679 354, CHUNGATHARA,
NILAMBUR TALUK, MALAPPURAM DISTRICT.**

**R1 BY SMT. REMA R., PUBLIC PROSECUTOR
R2 BY ADV. SRI.K.C.ANTONY MATHEW**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 01-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

rkj

Crl.MC.No. 5901 of 2015

APPENDIX

PETITIONER(S)' ANNEXURES :-

**ANNEXURE A1 : CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.410/2014
OF POTHUKALLU POLICE STATION.**

**ANNEXURE A2 : THE AFFIDAVIT DATED 30.07.2015 SWORN IN 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.5901 of 2015

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Dated this the 1st day of September, 2015

ORDER

The petitioner herein is the accused in C.C.No.350 of 2015 of the Judicial First Class Magistrate Court, Nilambur. 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 448, 323, 294(b) and 354 of the Indian Penal Code on the complaint of one Sulfath, 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, and I

am satisfied that the parties are now on quite cordial terms. 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 made a complaint against the petitioner on some misapprehension. The petitioner is none other than the brother-in-law of the victim, and the affidavit shows that the alleged incident happened in connection with the another dispute. I find that the whole dispute stands resolved forever. What is prominently revealed by the prosecution in the case is trespass and assault.

In the result, this petition is allowed. The prosecution against the petitioner herein in C.C.No.350 of 2015 of the Judicial First Class Magistrate Court, Nilambur 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

rkj

//TRUE COPY//

P.A. TO JUDGE