

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 2ND DAY OF SEPTEMBER 2015/11TH BHADRA, 1937

Cr1.MC.No. 5919 of 2015

IN CC 736/2014 OF THE JUDICIAL FIRST CLASS MAGISTRATE
COURT, KASARAGOD
CRIME NO. 611/2013 OF BADIADUKKA POLICE STATION, KASARGOD

PETITIONER/ACCUSED:

SATHYA NARAYANA SHARMA @ S.N.SHARMA,
AGED 48 YEARS, S/O.KRISHNA BHAT,
KODIYADUKKA, BADIADKA VILLAGE,
KASARAGOD.

BY ADV. SRI.S.JIJI

RESPONDENTS/STATE AND DE-FACTO COMPLAINANT:

1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
2. JOICY JOSE, AGED 28 YEARS,
W/O.JOSE PANICKER, KODIYADUKKA,
BADIADKA, KASARAGOD - 671 541.
3. MARY THOMAS, AGED 57 YEARS,
W/O.THOMAS PANICKER,
KODIYADUKKA,
BADIADKA, KASARAGOD - 671 541.
4. RATNA.M, AGED 36 YEARS,
W/O.MALLAPPA NAIKA, KODIYADUKKA,
BADIADKA, KASARAGOD - 671 541.

R2-R4 BY ADV. SMT.K.S.SANTHI
R1 BY PUBLIC PROSECUTOR SMT.SHEEBA M.T

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 02-09-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

Cr1.MC.No. 5919 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A1: COPY OF THE FIR IN CR.NO.611/2013 OF BADIADKA POLICE STATION.

ANNEXURE A2: COPY OF THE FINAL REPORT IN CR.NO.611/2013 OF BADIADKA POLICE STATION

ANNEXURES A3(A) TO A3(C): AFFIDAVITS DATED 28.5.2015 SWORN BY THE RESPONDENTS 2 TO 4.

RESPONDENT'S ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.5919 of 2015

Dated this the 2nd day of September, 2015

O R D E R

The petitioner herein is the sole accused in C.C No.736/2014 of the Judicial First Class Magistrate Court I, 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 Section 294(b) of the Indian Penal Code and Section 119(b) of the Kerala Police Act on the complaint of one Joicy Jose, 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 respondents 3 and 4 have also filed affidavit to the effect that they have settled the whole dispute with the accused and they have no grievance or complaint now.

2. On a perusal of the first information statement in this case, I find nothing for a prosecution under Section 294(b)

IPC. Even for a prosecution under Section 119(b) of the Kerala Police Act, the prosecution must have a case that photograph of the lady was taken by the accused in a manner affecting her privacy. The first information statement shows that the petitioner took photographs in connection with another incident of dispute, involving civil disputes, and he probably took the photographs with the object of proving the trespass alleged. Such an act will not come under Section 119(b) of the Kerala Police Act. Anyway, the matter now stands settled forever, and the complainant has no grievance or complaint.

3. 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 the 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 herein in C.C No.736/2014 of the Judicial First Class Magistrate Court I, 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.

**P.UBAID
JUDGE**

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