

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 4TH DAY OF SEPTEMBER 2015/13RD BHADRA, 1937

Crl.MC.No. 5968 of 2015 ()

**LP NO. 75/2005 (C.C.NO.429 OF 2002) ON THE FILES OF THE JUDICIAL FIRST CLASS
MAGISTRATE COURT,NILAMBUR**

PETITIONERS/Accused Nos. 1,3,4 &5:

1. **K.T.ABDUL SAMAD,
SON OF THARIKUTTY,
KANHIRATHODIKA HOUSE, CHERUMUKKU P.O.,
TIRURANGADI, MALAPPURAM.**
2. **K.T. HANEEFA, SON OF THRIKUTTY, SON OF THARIKUTTY,
KANHIRATHODIKA HOUSE, CHERUMUKKU P.O.,
TIRURANGADI, MALAPPURAM.**
3. **K.T. YOUSAF,SON OF THARIKUTTY,
KANHIRATHODIKA HOUSE, CHERUMUKKU P.O.,
TIRURANGADI, MALAPPURAM.**
4. **K.T. ISMAYIL,SON OF THARIKUTTY,
KANHIRATHODIKA HOUSE, CHERUMUKKU P.O.,
TIRURANGADI, MALAPPURAM.**

BY ADV. SRI.P.K.NIJOY

RESPONDENTS/State & Complainant:

1. **STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**
2. **SUBAIDA, DAUGHTER OF MAMMAD, AGED 38 YEARS,
KANCHEERANGADAN HOUSE, VARIKKAL, KARULAYI P.O.,
MALAPPURAM.**

R2 BY ADV. SRI.MAHESH V.MENON

R1 BY PUBLIC PROSECUTOR SMT. SHEEBA M.T.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
04-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' ANNEXURE:

- ANNEXURE A1:** CERTIFIED COPY OF THE FIR IN CRIME NO.256 OF 2002 DATED 11.4.2002.
- ANNEXURE A2:** CERTIFIED COPY OF FINAL REPORT IN CRIME NO.256 OF 2002 SUBMITTED BEFORE THE JFCM COURT, NILAMBUR.
- ANNEXURE A3:** TRUE COPY OF THE AFFIDAVIT DATED 18-03-2011 OF THE 2ND RESPONDENT.

RESPONDENT(S)' ANNEXURE: NIL

/TRUE COPY/

P.A. TO JUDGE

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P.UBAID, J.

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Crl.M.C.No.5968 of 2015

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Dated this the 4th day of September, 2015

ORDER

The petitioners herein are the accused Nos.1, 3, 4 and 5 in Crime No.256 of 2002 of the Nilambur Police Station registered under Sections 406 and 498A IPC. The other accused faced trial before the learned Magistrate in C.C.No.429 of 2002, and obtained a judgment of acquittal, when all the material witnesses turned hostile to the prosecution in view of an amicable settlement made by the parties out of Court. As these petitioners could not appear in Court promptly due to some reasons and unavoidable circumstances, their case happened to be split up and re-filed during trial. Later, the case was transferred to the register of long pending cases as L.P.No.75 of 2005. Now, the petitioners seek orders quashing the prosecution on the ground of amicable settlement out of Court, and also on the ground that the very substratum of the prosecution case is totally lost by the acquittal of the others. The defacto complainant in the case is the second respondent herein. She has filed affidavit to the effect that the

whole dispute stands settled and resolved forever, and she has no grievance or complaint. There is no dispute regarding the fact that the other accused already stand acquitted on settlement. In such a situation, continuance of the prosecution against these petitioners will not serve any purpose other than wasting the precious time of the trial court. The Honourable Supreme Court has held in so many decisions that in such cases where continuance of the prosecution will not serve any purpose, the Court can very well invoke the powers under Section 482 Cr.P.C., and quash the pending prosecution. Here, I am well satisfied that there is a genuine settlement between the parties. In such a situation, nobody will support the prosecution, if the case against the petitioners goes to trial.

In the result, the prosecution against the petitioners herein now pending in L.P. No.75 of 2005 before the Judicial First Class Magistrate's Court, Nilambur will stand quashed under Section 482 Cr.P.C.

Sd/-
**P.UBAID
JUDGE**

rkj

//TRUE COPY//

P.A. TO JUDGE