

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 8TH DAY OF SEPTEMBER 2015/17TH BHADRA, 1937

Cr1.MC.No. 6011 of 2015

IN CC 1000/2014 OF THE JUDICIAL FIRST CLASS MAGISTRATE
COURT I, THAMARASSERY
CRIME NO. 332/2014 OF KODUVALLY POLICE STATION, KOZHIKODE

PETITIONER:

ASSAINAR, AGED 56 YEARS,
S/O.IMBICHAHAMED HAJI,
KIZHAKKETHODUKAYIL HOUSE,
MODERN BAZAAR, KODUVALLY, KOZHIKODU.

BY ADV. SRI.T.KABIL CHANDRAN

RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.
2. SUB INSPECTOR OF POLICE,
KODUVALLY POLICE STATION, KOZHIKKODU,
PIN - 673 572.
3. MARIYA, AGED 65 YEARS,
W/O.MOOSA, MEPPALA VEEDU, MODERN BAZAR,
KODUVALLY, KOZHIKODU,
PIN - 673 572.

R3 BY ADV. SMT.V.SHYLAJA

R2 & R3 BY PUBLIC PROSECUTOR SMT.R.REMA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR
ADMISSION ON 08-09-2015, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING:

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A: COPY OF THE FIR IN CRIME NO.332/2014

ANNEXURE B: COPY OF THE FINAL REPORT

ANNEXURE C: COPY OF THE AFFIDAVIT OF THE 3RD RESPONDENT.

RESPONDENT'S ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.6011 of 2015

Dated this the 8th day of September, 2015

O R D E R

The petitioner herein is the accused in C.C No.1000/2014 of the Judicial First Class Magistrate Court I, Thamarassery. 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 447, 323 and 354 of the Indian Penal Code on the complaint of one Mariya who is the third 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. On a perusal of the materials, including the complaint and the final report, I find that this is only a case of assault. A mere assault or use of criminal force on a woman will not by itself attract a prosecution under Section 354 of IPC. Anyway, the whole dispute now stands resolved forever, and the parties are now on quite cordial terms.

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 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.1000/2014 of the Judicial First Class Magistrate Court I, Thamarassery 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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