

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

Crl.MC.No. 6016 of 2015

CRIME NO. 748/2015 OF KOTTAKKAL POLICE STATION , MALAPPURAM

PETITIONER/ACCUSED :-

**ILLIYAS T., S/O.MUHAMMEDKUTTY,
AGED 28 YEARS, THAITHODI HOUSE,
CHAPPANANGADI P.O.,
KOTTAKKAL, MALAPPURAM DISTRICT.**

**BY ADVS.SRI.BABU S. NAIR
SRI.R.RANJITH**

RESPONDENTS/STATE & COMPLAINANT :-

- 1. THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM,
KOCHI – 682 031 – FOR
THE SUB INSPECTOR OF POLICE,
KOTTAKKAL POLICE STATION,
MALAPPURAM DISTRICT.**
- 2. MARIYAMMU, AGED 37 YEARS,
W/O.AHAMMEDKUTTY, CHEERANGAN KOMBATHU,
PUTHUPARAMBU P.O., EDARIKKODE,
TIRUR TALUK, MALAPPURAM DISTRICT,
PIN – 676 501.**

**R1 BY SRI.JUSTIN JACOB, PUBLIC PROSECUTOR
R2 BY ADV. SMT.M.LISHA**

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

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Crl.MC.No. 6016 of 2015

APPENDIX

PETITIONER(S)' ANNEXURES :-

**ANNEXURE A : TRUE COPY OF THE F.I.R. IN CRIME NO.748/2015 OF THE
KOTTAKKAL POLICE STATION DATED, 23.07.2015.**

**ANNEXURE B : TRUE COPY OF THE AFFIDAVIT SWORN TO BY THE 2ND
RESPONDENT DATED, 4.9.2015.**

RESPONDENT(S)' ANNEXURES :- NIL

//TRUE COPY//

P.A. TO JUDGE

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P.UBAID, J.

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Crl.M.C.No.6016 of 2015

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Dated this the 8th day of September, 2015

ORDER

The petitioner seeks orders quashing the F.I.R and further proceedings in Crime No.748 of 2015 of Kottakkal Police Station, Malappuram registered under Section 23 of the Juvenile Justice (Care and Protection of Children) Act on the complaint of one Fathima Thasli. Orders are sought on the ground of amicable settlement of the whole dispute between the accused and the defacto complainant out of Court. The mother of the victim, Mariyumma(2nd respondent) has filed affidavit to the effect that she settled the whole dispute with the accused, and she has no grievance or complaint.

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 prosecution; be it at the crime stage or at the trial stage or even at the appellate or revision stage; if the parties have really settled the whole dispute or if

continuance of 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.

3. On a perusal of the whole materials, I find that this prosecution brought under Section 23 of the Juvenile Justice (Care and Protection of Children) Act is absolutely baseless. The allegation against the petitioner in the complaint is that he made a promise of marriage through telephone, and even transmitted kiss through telephone. It is not known how this will come under Section 23 of the Juvenile Justice Act. For a prosecution under Section 23 of the Juvenile Justice Act, the accused must be the person having actual charge of the Juvenile, or control over the Juvenile, and the accused must have assaulted, or abandoned, or exposed, or willfully neglected the child in such a way as to cause some sort of mental, or physical suffering to the Juvenile. The complaint in this case does not disclose any of these ingredients under Section 23 of the Juvenile Justice Act. Thus, I find, that even if not settled the prosecution is otherwise liable to be quashed.

In the result, this petition is allowed. The F.I.R and further proceedings in Crime No.748 of 2015 of the Kottakkal Police Station, Malappuram will stand quashed under Section 482 of the Code of Criminal Procedure.

**P.UBAID
JUDGE**

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