IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 11TH DAY OF MARCH 2015/20TH PHALGUNA, 1936

Crl.MC.No. 4842 of 2014 ()

IN CC 285/2011 of J.M.F.C.-II, CHERTHALA

PETITIONER(S):

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1. **ANIL KUMAR**
   KALATHINTE VADAKKETH HOUSE, THEKKEKARA
   MAVELIKKARA P.O, ALAPPUZHA DISTRICT.

2. **REMADEVI**
   W/O.ANIL KUMAR, KALATHINTE VADAKKETH HOUSE, THEKKEKARA
   MAVELIKKARA P.O, ALAPPUZHA DISTRICT.

   BY ADVS.SRI.P.VINODKUMAR
   SRI.T.K.AJITH KUMAR

RESPONDENT(S):

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1. **STATE OF KERALA**
   REPRESENTED BY THE STATE PUBLIC PROSECUTOR
   HIGH COURT OF KERALA, 682 031.

2. **MAYANKUTTY**
   S/O.SAID MUHAMMED, ALAPPURATH HOUSE, PONNAD P.O
   MANNANCHERY, ALAPPUZHA DISTRICT.

   R2 BY ADV. SRI.T.C.SANTHILAL
   R1 BY PUBLIC PROSECUTOR SMT. S. HYMA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 11-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 4842 of 2014 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE A1. COPY OF THE FINAL REPORT DATED 5.3.07.

ANNEXURE A2. COPY OF THE COMPROMISE PETITION BEFORE THE JFCM 11, CHERTHALA IN CC 285/11.

ANNEXURE A3. COPY OF THE AFFIDAVIT SWORN BY THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

PA TO JUDGE
sab

P.UBAID, J.

Crl. M.C No. 4842 of 2014

Dated this the 11th day of March, 2015.

O R D E R

The petitioners herein are the two accused in C.C No. 285 of 2011 of the Judicial First Class Magistrate Court-II, Cherthala. The offence involved in the case is punishable under Section 420 IPC. There is a report by the learned Magistrate that the second accused, who is the second petitioner herein, stands already acquitted by judgment dated 19.4.2011. Both the accused seek orders quashing the prosecution. This Crl.M.C was filed on 25.8.2014 after three years from the date of acquittal of the second accused. But she is also a party here. This shows the irresponsible way in which this proceeding is filed to quash the prosecution. The report of the learned Magistrate shows that warrant of arrest is there against the first petitioner (first accused) due to consistent absence in court. The report also shows that on 20.2.2014 a composition was filed in court, but it was not later pursued. Even thereafter the first accused remained absent on many occasions. Now as a short cut he has come before this court to get the proceeding quashed under Section 482 Cr.P.C. I am not inclined to entertain this Crl.M.C under Section 482 Cr.P.C. The

first accused will have to surrender before the learned Magistrate. If the offence stands really compounded, the parties can very well file composition afresh before the learned Magistrate. The offence is compoundable under the law. In such a case orders cannot be passed under Section 482 Cr.P.C. If there is a real settlement, the parties can file composition on the date of surrender itself. Otherwise, the first accused will have to obtain regular bail. His application will be judiciously considered by the learned Magistrate on the date of surrender itself.

With these observations, this Crl.M.C is closed, directing the first petitioner to approach the learned Magistrate for appropriate orders including composition.

P.UBAID,
JUDGE

sab