

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 14TH DAY OF SEPTEMBER 2015/23RD BHADRA, 1937

Cr1.MC.No. 6089 of 2015

IN SC 229/2012 of SUB COURT, MANJERI

CRIME NO. 388/2011 OF KOLATHUR POLICE STATION, MALAPPURAM

PETITIONER:

V.K.UMMERKUTTY, AGED 74 YEARS,
S/O.KUNHUNNIYAN HAJI,
RESIDING AT VATTAKANDATHIL HOUSE, P.O.CHELAKKAD
KATTUPPARA, MALAPPURAM DISTRICT.

BY ADV. SRI.SURAJ.S

RESPONDENTS:

1. THE STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, COCHIN-682 031.
2. MOHAMMED RAFI, AGED 40 YEARS
S/O.KOYA HAJI, MELEPURATH HOUSE,
PULAMANTHOLE AMSOM,
DESOM, PERINTHALMANNA TALUK,
MALAPPURAM DISTRICT-679 322.

R2 BY ADV. SRI.NIRMAL V NAIR
R1 BY PUBLIC PROSECUTOR SMT.SHEEBA M.T

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 14-09-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

Cr1.MC.No. 6089 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A- COPY OF THE FIR IN CRIME NO.388/2011 OF THE
KOLATHUR POLICE STATION.

ANNEXURE B- CHARGE SHEET IN CRIME NO.388/2011 IN S.C.229/2012
ON THE FILE OF SUB COURT, MANJERI.

ANNEXURE C- A COPY OF AFFIDAVIT FILED BY THE 2ND RESPONDENT.

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.6089 of 2015

Dated this the 14th day of September, 2015

O R D E R

The petitioner herein is the accused in S.C No.229/2012 of the Sub Court, Manjeri. 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 341 and 308 of the Indian Penal Code on the complaint of one Mohammed Rafi who is the 2nd respondent in this proceeding brought under Section 482 of the Code of Criminal Procedure. He has filed affidavit to the effect that he has settled the whole dispute with the accused, and he has no grievance or complaint now.

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. On a perusal of the materials, including the final report, I find that Section 308 IPC was incorporated by the police on the basis of some hypothetical statement. This appears to be a simple case of assault. Anyway, the counter case also stands settled. 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 S.C No.229/2012 of the Sub Court, Manjeri 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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