

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 22ND DAY OF SEPTEMBER 2015/31ST BHADRA, 1937

Crl.MC.No. 6166 of 2015 ()

**CP 133/2015 of JUDICIAL FIRST CLASS MAGISTRATE COURT-II, HOSDRUG
CRIME NO. 168/2011 OF VELLARIKUNDU POLICE STATION, KASARGOD DISTRICT**
=====

PETITIONER/ACCUSED:

**VINOD K.G., AGED 41 YEARS
S/O.GOVINDAN, RESIDING AT KONGINIKATTIL HOUSE
VALAVOOR P.O., VALAVOOR, VALLICHIRA VILLAGE
MEENACHIL TALUK, KOTTAYAM DISTRICT.**

BY ADV. SRI.T.MADHU

RESPONDENTS/STATE:

**1. THE STATE OF KERALA
THROUGH THE STATION HOUSE OFFICER
VELLARIKUNDU POLICE STATION, KASARAGOD DISTRICT
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.**

**2. M.REMANI, AGED 35 YEARS
D/O.GOPALAN, RESIDING AT KURUVATTU VEETIL
KURATHIMADA COLONY, WEST ELERI VILLAGE
VELLARIKUNDU TALUK, KASARAGOD DISTRICT-671533.`**

**R2 BY ADV. SMT.G.SANGEETHA
R1 BY PUBLIC PROSECUTOR SRI. JUSTIN JACOB**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 22-09-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

- | | |
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| ANNEXURE-A1 | CERTIFIED COPY OF THE FIR IN CRIME NO.168/2011 OF VELLARIKUNDU POLICE STATION, KASARAGOD DISTRICT |
| ANNEXURE-A2 | CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.168/2011 OF VELLARIKUNDU POLICE STATION, KASARAGOD DISTRICT |
| ANNEXURE A3 | AFFIDAVIT DATED 26.08.2015 SWORN BY THE 2ND RESPONDENT |

RESPONDENTS' EXHIBITS

NIL

TRUE COPY

P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.6166 of 2015

Dated this the 22nd day of September, 2015

O R D E R

The petitioner herein is the accused in C.P.No.133/2015 of the Judicial First Class Magistrate Court-II, Hosdurg. 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 Section 376 IPC, on the complaint of one Remani, who is the 2nd 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. The affidavit shows that she happened to prefer complaint against the petitioner on some misapprehension. On a perusal of the entire materials, I find that this is not in fact a case of rape. The product of the alleged rape is now 13 years old. The materials will show that the petitioner and the victim had lived for some time as man and wife, and everything that happened between them was consensual. A clear

case of rape cannot be found from the materials. Any way, the parties have now come to terms, and the whole dispute stands resolved forever.

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 further proceedings 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.P.No.133/2015 of the Judicial First Class Magistrate Court-II, Hosdurg will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioner will stand released from prosecution. It is submitted

that the petitioner is now in jail. The learned Magistrate having jurisdiction will issue necessary orders to release him.

Sd/-

P. UBAID, JUDGE

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