

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 23RD DAY OF SEPTEMBER 2015/1ST ASWINA, 1937

Crl.MC.No. 6248 of 2015 ()

CRIME No. 2087/2014 OF PALA POLICE STATION , KOTTAYAM DISTRICT

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PETITIONER/ACCUSED NO.1:

**JOSEKUTTY P.SEBASTIAN
S/O. SEBASTIAN, PAZHUKUNNEL HOUSE
PALA, KOTTAYAM.**

BY ADV. SMT.V.P.SATHI

RESPONDENTS/STATE/DEFACTO COMPLAINANT:

**1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-31.**

**2. JINTA VARGHESE, D/O. VARGHESE PHILIPOSE
PAIKKATTU HOUSE, ATTACHAL P.O.
KONNI, PATHANAMTHITTA DISTRICT-689692.**

**R2 BY ADV. SRI.JINU JOSEPH
R1 BY PUBLIC PROSECUTOR SRI. JUSTIN JACOB**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 23-09-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

**ANNEXURE-I COPY OF F.I.R. IN CRIME No. 2087/2014 OF PALA POLICE STATION
DATED 5.7.2014**

**ANNEXURE-II COPY OF F.I.STATEMENT OF 2ND RESPONDENT IN CRIME
NO.2087/2014 DATED 1.11.2014**

ANNEXURE-III AFFIDAVIT FILED BY 2ND RESPONDENT DATED 14.9.2015

RESPONDENTS' EXHIBITS

NIL

TRUE COPY

P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.6248 of 2015

Dated this the 23rd day of September, 2015

O R D E R

The petitioner seeks orders quashing the F.I.R and further proceedings in Crime No.2087/2014 of the Pala Police Station, registered under Sections 323, 328, 376 and 506(i) read with Section 34 IPC, on the complaint of one Jinta Varghese. Orders are sought on the ground of amicable settlement of the whole dispute between the accused and the de facto complainant out of court. The de facto complainant Jinta Varghese 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. Her affidavit shows that she settled the dispute quite voluntarily in the best interest of herself and her family including an unmarried sister. The victim appeared before me in person as directed from the court, and explained the circumstance of the reported settlement. On interacting with her in open court, I could gather that she had lived for eight months with the petitioner herein as his wife. In

short, everything that happened between them as man and wife was purely consensual. There is reason to believe that on some misapprehension, she thought of filing a complaint against the petitioner, or she brought a complaint alleging rape when he retracted from the promise to marry her. If it was a mere promise to marry, it is not known how she could live with him for eight months as his wife. Thus, I find that the complaint is suspicious. Any way, the parties have come to terms resolving all disputes between them, and the victim has decided to abandon the case settling the dispute in the best interest of herself and her family. She now wants a happy married life for herself and her sister, and she believes that it would be obstructed, if the prosecution continues. I am well satisfied that the settlement is quite genuine, and that the victim was not compelled or forced by anybody to come to settlement. In such a situation, it is appropriate that the prosecution be quashed.

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; 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.

In the result, this petition is allowed. The F.I.R and further proceedings in Crime No.2087/2014 of the Pala Police Station will stand quashed under Section 482 of the Code of Criminal Procedure.

Sd/-

P. UBAID, JUDGE

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