

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 8TH DAY OF OCTOBER 2015/16TH ASWINA, 1937

Cr1.MC.No. 6274 of 2015

IN SC 428/2013 OF THE SESSIONS COURT, KASARAGOD

CRIME NO.1125/2013 OF HOSDURG POLICE STATION , KASARGOD

PETITIONER/ACCUSED:

MUHAMMED FIROZ, AGED 30 YEARS,
S/O.ABDUL RAHIMAN, MOOPANTAKATH, KOTTACHERY,
VELLUR GRAMAM, KANNUR DISTRICT, PIN-670307.

BY ADVS.SRI.K.J.MOHAMMED ANZAR
SMT.P.R.SOPHIYA

RESPONDENTS/STATE/COMPLAINANT AND DEFACTO COMPLAINANT & CW4:

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1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, PIN-682031.
 2. THE STATION HOUSE OFFICER,
HOSDURG POLICE STATION, KASARAGOD DISTRICT
PIN-671315.
 3. VISHNU HARI, MINOR AGED 16 YEARS,
REPRESENTED BY HIS FATHER HARISH KUMAR,
AGED 46 YEARS,
S/O.KUNHIRAMAN KARTHIKA, NELLIKKATU, BELLA GRAMAM,
KASARAGOD DISTRICT, PIN-671531.
 4. HARISH KUMAR, AGED 46 YEARS,
S/O.KUNHIRAMAN, KARTHIKA, NELLIKKATU,
BELLA GRAMAM, KASARAGOD DISTRICT, PIN-671531.

R3 BY ADV. SRI.DILEEP D BHAT
R1 & R2 BY PUBLIC PROSECUTOR SRI.JUSTIN JACOB

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
08-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 6274 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A1: COPY OF THE FIR IN CRIME NO.1125/2012 OF HOSDURG POLICE STATION.

ANNEXURE A2: COPY OF THE FINAL REPORT IN S.C NO.428/2012 IN FIR NO.45/2012 OF CHITTARIKKAL POLICE STATION

ANNEXURE A3: ORIGINAL OF THE AFFIDAVIT DATED 25.3.2015 SWORN BY HARISH KUMAR, THE FATHER OF THE 3RD RESPONDENT, THE DEFACTO COMPLAINANT.

RESPONDENT'S ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.6274 of 2015

Dated this the 8th day of October, 2015

O R D E R

The petitioner herein is the sole accused in S.C No.428/2013 of the Court of Session, Kasaragod, involving the offences under Sections 7 and 8 of the Protection of Children from Sexual Offences Act, 2012. The victim of offence in this case is a boy aged 14 years at the time of incident. The petitioner seeks orders quashing the prosecution on the ground of amicable settlement of the whole dispute out of court.

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. 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.

3. The victim of offence is now aged 16 years. He is the 3rd respondent herein, and the 4th respondent is his father. The 4th respondent has filed affidavit to the effect that the whole dispute stands amicably settled out of court and that he or his son has no grievance or complaint.

4. The victim and his father appeared in Court as directed, and explained the circumstances of settlement. Both of them stated in open court that the complaint happened to be filed on some misapprehension, and that exposure of the child to a trial process will cause embarrassment to him. I find that exposure of the child to a trial process on the given allegation will cause embarrassment to him, and such trial process may even affect his studies. He is now studying in the Plus One class. I am well satisfied that the victim's guardian has come to terms in the best interest of the son. This is not a case involving any public interest or public issue. The matter is purely personal, and I am satisfied that the complaint in fact happened to be made on some misapprehension.

In the result, this petition is allowed. The prosecution against the petitioner herein in S.C No.428/2013 of the Court of

Session, Kasaragod will stand quashed under Section 482 of the Code of Criminal Procedure.

**P.UBAID
JUDGE**

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