

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

Cr1.MC.No. 6309 of 2015

IN S.C.NO.3/2014 BEFORE THE ADDITIONAL SESSIONS COURT,
ERNAKULAM
CRIME NO. 351/2004 OF ERNAKULAM CENTRAL POLICE STATION,
ERNAKULAM

PETITIONERS/ACCUSED (A1 & 2) :

1. M.A AHAMMED ALI @ MUHAMMED ALI,
AGED 71 YEARS,
S/O. AHAMMED MEERA SAHIB, 40/6972,
SREENIVASAN MALLAN ROAD, ERNAKULAM DISTRICT,
KOCHI-35.
2. RAHMATH, AGED 59 YEARS,
W/O. M.A.AHAMMED ALI, 40/6972,
SREENIVASAN MALLAN ROAD,
ERNAKULAM DISTRICT, KOCHI-35.

BY ADV. SRI.P.K.VARGHESE

RESPONDENTS/STATE AND DEFACTO COMPLAINANT:

1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.
2. ROSHAN FATHIMA, AGED 28 YEARS,
D/O. AKBER ALI, HOUSE NO.10, ETTAV THERUVIL,
ERVADIKARAYIL, THIRUNELVELI DISTRICT,
TAMIL NADU - 600 058.

R1 BY PUBLIC PROSECUTOR SRI.JUSTIN JACOB
R2 BY SMT.NIMA JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR
ADMISSION ON 23-09-2015, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING:

Cr1.MC.No. 6309 of 2015

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE 1: CERTIFIED COPY OF THE CHARGE IN CRIME
NO.351/2004 OF CENTRAL POLICE STATION.

ANNEXURE 2 : COPY OF THE FIR IN CRIME NO.351/2004 OF
CENTRAL POLICE STATION.

ANNEXURE 3 : COPY OF THE ORDER DTD.4.5.04 IN BA
NO.2215/2004.

ANNEXURE 4 : ORIGINAL OF THE AFFIDAVIT SWORN BY THE 2ND
RESPONDENT DTD.26.8.2015 STAY PETITION.

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.6309 of 2015

Dated this the 23rd day of September, 2015

O R D E R

The petitioners herein are the two accused in S.C No.3/2014 of the Additional Sessions Court, Ernakulam They seek orders quashing the prosecution on the ground of amicable settlement of the whole dispute between them and the de facto complainant. Crime in this case was registered under Sections 354 and 324 of the Indian Penal Code on the complaint of one Roshan Fathima, 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.

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 further 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. 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 petitioners herein in S.C No.3/2014 of the Additional Sessions Court, Ernakulam will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioners will stand released from prosecution, and the bail bond, if any, executed by them will stand discharged.

**Sd/-
P.UBAID
JUDGE**

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