

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. 6311 of 2015

CRIME NO. 438/2015 OF KILIMANOOR POLICE STATION ,
THIRUVANANDAPURAM

PETITIONERS/A1 TO A3:

1. RAFAEEK, AGED 34 YEARS,
S/O. SHAFI, PULIMOOTTIL VEEDU, MEMOODU,
PULIYOORKONAM P.O., MADAVOOR VILLAGE,
THIRUVANANTHAPURAM.
2. FASEELA BEEVI, AGED 58 YEARS,
D/O. UMMAR SAHIB, PULIMOOTTIL VEEDU, MEMOODU,
PULIYOORKONAM P.O., MADAVOOR VILLAGE,
THIRUVANANTHAPURAM.
3. RASEENA, AGED 31 YEARS,
D/O. SHAFI, PULIMOOTTIL VEEDU, MEMOODU,
PULIYOORKONAM P.O., MADAVOOR VILLAGE
THIRUVANANTHAPURAM.

BY ADV. SRI.SHAJIN S.HAMEED

RESPONDENTS/STATE & DE FACTO COMPLAINANT:

1. STATE OF KERALA
REPRESENTED BY THE SUB INSPECTOR OF POLICE
KILIMANOOR POLICE STATION,
REPRESENTED THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.
2. FAUSIYA, AGED 21 YEARS,
D/O. SALEEM, CHALUVILA VEEDU, CHOOTAYIL,
KILIMANOOR, CHIRAYINKIL, THIRUVANANTHAPURAM.

R2 BY ADV. SRI.HRITHWIK

R1 BY PUBLIC PROSECUTOR SRI.JUSTIN 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. 6311 of 2015

APPENDIX

PETITIONERS' ANNEXURES:

ANNEXURE A : CERTIFIED COPY OF THE COMPLAINT CMP NO.912/2015
FILED BY THE 2ND RESPONDENT AGAINST THE PETITIONERS BEFORE THE
JUDICIAL 1ST CLASS MAGISTRATE COURT-III, ATTINGAL.

ANNEXURE B : CERTIFIED COPY OF THE FIR IN CRIME NO.438/2015 OF
KILIMANOOR POLICE STATION.

ANNEXURE C : AFFIDAVIT EXECUTED BY THE 2ND RESPONDENT/DE FACTO
COMPLAINANT.

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.6311 of 2015

Dated this the 23rd day of September, 2015

O R D E R

The petitioners seek orders quashing the F.I.R and further proceedings in Crime No.438/2015 of the Kilimanoor Police Station, registered under Sections 323 and 498A r/w 34 of the Indian Penal Code on the complaint of one Fausiya. 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 Fausiya is the second respondent in this proceeding brought under Section 482 of the Code of Criminal Procedure. The victim's affidavit shows that the whole matrimonial dispute stands resolved forever, and that the victim's dues also stand settled.

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; be it at the crime stage or at the trial stage or even at the appellate or revisional stage; if the parties have really settled the whole dispute, or if continuance of the 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.438/2015 of the Kilimanoor Police Station will stand quashed under Section 482 of the Code of Criminal Procedure.

**P.UBAID
JUDGE**

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