

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 25TH DAY OF SEPTEMBER 2015/3RD ASWINA, 1937

Crl.MC.No. 6344 of 2015 ()

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CC 162/2010 of JUDICIAL FIRST CLASS MAGISTRATE COURT-I, MAVELIKKARA
CRIME NO. 45/2010 OF MAVELIKKARA POLICE STATION, ALAPPUZHA DISTRICT
=====**

PETITIONERS/ACCUSED NOS.1 TO 3:

- 1. SHIJU VARGHESE, AGED 36 YEARS
S/O. V.T.VARGHESE, RESIDING AT
VADAKKEVEETIL, AKANATTUKARA
KALLUMALA P.O., THAZHAKARA VILLAGE
ALAPPUZHA DISTRICT 690110**
- 2. ELIAMMA VARGHESE, AGED 65 YEARS
W/O. V.T.VARGHESE, RESIDING AT
VADAKKEVEETIL, AKANATTUKARA
KALLUMALA P.O., THAZHAKARA VILLAGE
ALAPPUZHA DISTRICT -690110**
- 3. VARGHESE KUNJUMON, AGED 75 YEARS
S/O. THOMAS, RESIDING AT VAKADDEVEETIL
AKANATTUKARA, KALLUMALA P.O.
THAZHAKARA VILLAGE, ALAPPUZHA DISTRICT -690110**

BY ADV. SRI.K.R.SUNIL

RESPONDENTS/COMPLAINANT & DE-FACTO COMPLAINANT:

- 1. STATE OF KERALA REPRESENTED BY THE
SUB INSPECTOR OF POLICE, MAVELIKARA
POLICE STATION WHO IS REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM**
 - 2. SARAMMA JOSEPH, AGED 32 YEARS, W/O. SHIJU
VARGHESE, RESIDING AT SHIBU BHAVAN
KUTHIRACHIRA MURI, PUNALUR VILLAGE
PATHANAPURAM TALUK, KOLLAM DISTRICT - 691305**
- R2 BY ADV. SRI.MANU RAMACHANDRAN
R1 BY PUBLIC PROSECUTOR SRI.P.K. ABDUL RAHMAN**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 25-09-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONERS' EXHIBITS

- | | |
|--------------------|---|
| ANNEXURE A1 | CERTIFIED COPY OF THE FIR IN CRIME No.45/2010 OF
MAVELIKKARA POLICE STATION |
| ANNEXURE A2 | CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.45/2010
OF MAVELIKARA POLICE STATION FILED BEFORE THE
JUDICIAL FIRST CLASS MAGISTRATE COURT-I, MAVELIKARA |
| ANNEXURE A3 | ORIGINAL AFFIDAVIT DATED 4.9.2015 EXECUTED BY THE 2ND
RESPONDENT (DEFACTO COMPLAINANT) |

RESPONDENTS' EXHIBITS

NIL

TRUE COPY

P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.6344 of 2015

Dated this the 25th day of September, 2015

O R D E R

The petitioners herein are the accused in C.C.No.162/2010 of the Judicial First Class Magistrate Court-I, Mavelikkara. They seeks 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 498-A, 323, 294(b) and Section 34 IPC, on the complaint of one Saramma Joseph, 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 the whole matrimonial dispute stands resolved forever. It is submitted that the parties have decided to part ways in terms of the settlement, and they have filed a joint application for divorce. In such a situation it is appropriate that the prosecution be quashed.

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 petitioners herein in C.C.No.162/2010 of the Judicial First Class Magistrate Court-I, Mavelikkara 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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