

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. 6348 of 2015 ()

**-----
CC 697/2013 of ADDITIONAL CHIEF JUDICIAL MAGISTRATE (ECONOMIC OFFENCES)
COURT, ERNAKULAM
CRIME NO. 60/2011 OF ERNAKULAM SOUTH POLICE STATION, ERNAKULAM DISTRICT
=====**

PETITIONERS/ACCUSED 1 TO 3:

- 1. SHAMEER CHAND, AGED 31 YEARS
S/O. CHAND MOHAMMED, KALATHIL HOUSE
MANTHAKKADU, MALAMPUZHA
PALAKKAD -678651**
- 2. CHAND MOHAMMED, AGED 56 YEARS
S/O. YOUSAF, KALATHIL HOUSE
MANTHAKKADU, MALAMPUZHA
PALAKKAD DISTRICT – 678651**
- 3. MYMOON, AGED 49 YEARS
W/O. CHAND MOHAMMED, KALATHIL HOUSE
MANTHAKKADU, MALAMPUZHA
PALAKKAD DISTRICT -678651**

BY ADV. SRI.K.P.BALAGOPAL

RESPONDENTS/STATE& DEFACTO COMPLAINANT:

- 1. STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM**
- 2. SIMINA JAMAL, AGED 29 YEARS, D/O. JAMAL
AYYATTU PARAMBIL HOUSE, PULLORSSERY ROAD
ELAMKULAM VILLAGE, PANAMPILLY NAGAR
KOCHI, PIN - 682036**

R2 BY ADV. SRI.K.N.CHATHUKUTTY

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-1 CERTIFIED COPY OF the COMPLAINT AND THE FIRST INFORMATION REPORT IN CRIME NO.60/2011 OF ERNAKULAM TOWN SOUTH POLICE STATION

ANNEXURE-2 CERTIFIED COPY OF THE POLICE CHARGE SHEET/FINAL REPORT IN C.C.NO.697/13 ON THE FILE OF HE ADDITIONAL CHIEF JUDICIAL MAGISTRATE (ECONOMIC OFFENCES) COURT, ERNAKULAM

ANNEXURE-3 COPY OF THE AGREEMENT DATED 26.04.2011 ENTERED INTO BETWEEN THE 1ST PETITIONER AND THE 2ND RESPONDENT HEREIN

ANNEXURE-4 AFFIDAVIT SWORN IN BY THE 2ND RESPONDENT DATED 22.09.2015

RESPONDENTS' EXHIBITS

NIL

TRUE COPY

P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.6348 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.697/2013 of the Additional Chief Judicial Magistrate (Economic Offences) Court, Ernakulam. 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 Section 498-A read with 34 IPC, on the complaint of one Simina Jamal, 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. The marriage stands dissolved by pronouncement of 'talaq', and the affidavit affirms that the victim has received all the claims under the law. She has no grievance or complaint now, and she does not want to prosecute the matter. In such a situation, where everything stands settled amicably, 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.697/2013 of the Additional Chief Judicial Magistrate (Economic Offences) 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

sd