

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 5TH DAY OF OCTOBER 2015/13TH ASWINA, 1937

Crl.MC.No. 6483 of 2015

**S.C.NO.1054/2013 of II ADDITIONAL ASSISTANT SESSIONS COURT,
THIRUVANANTHAPURAM**

CRIME NO. 581/2013 OF POONTHURA POLICE STATION, THIRUVANANTHAPURAM

PETITIONERS/ACCUSED :-

**ANTONY, S/O.SURLIN, AGED 45 YEARS,
TC 69/1251, IDP COLONY, CHERIAMUTTAM,
POONTHURA, MUTTATHARA,
THIRUVANANTHAPURAM.**

**BY ADVS.SRI.SUMAN CHAKRAVARTHY
SRI.SANDEEP T.GEORGE**

RESPONDENT/STATE, DEFACTO COMPLAINANT :-

- 1. THE STATE OF KERALA,
REP. BY ITS PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN - 682 021.**
- 2. MELS, D/O.MARLIN, AGED 37 YEARS,
TC 69/1251, IDP COLONY,
CHERIAMUTTAM, POONTHURA,
MUTTATHARA, THIRUVANANTHAPURAM,
PIN - 695 001.**

**R1 SMT. M.T.SHEEBA, BY PUBLIC PROSECUTOR
R2 BY ADV. SMT.BREJITHA UNNIKRISHNAN**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 05-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' ANNEXURES :-

**ANNEXURE A :- CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.581/13
OF POONTHURA POLICE STATION.**

ANNEXURE B :- ORIGINAL AFFIDAVIT EXECUTED BY THE 2ND RESPONDENT.

**ANNEXURE C :- ATTESTED COPY OF THE VOTER ID CARD OF THE 2ND
RESPONDENT.**

RESPONDENT(S)' ANNEXURES :- NIL

//TRUE COPY//

P.A. TO JUDGE

rkj

P.UBAID, J.

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Crl.M.C.No.6483 of 2015

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Dated this the 5th day of October, 2015

ORDER

The petitioner herein is the sole accused in S.C.No.1054 of 2013 of the II Additional Assistant Sessions Court, Thiruvananthapuram. He seeks orders quashing the prosecution on the ground of amicable settlement of the whole dispute between him and the de facto complainant. Crime in this case was registered under Sections 324 and 308 of the Indian Penal Code on the complaint of one Melsy, 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 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, and I am satisfied that the parties are now on quite cordial terms. 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's affidavit shows that the accused is none other than her husband, and that they are now living together as husband and wife quite happily. The whole dispute between them stands settled. Even otherwise, I find on a perusal of the materials including the First information Statement and final report that this is not in fact a case of attempted culpable homicide. There is reason to believe

that Section 308 IPC was incorporated the proceeding by the police on the basis of a purely hypothetical statement. Anyway, the parties have now come to terms, and they are now happy husband and wife. In such a situation, it is appropriate that the pending prosecution be quashed.

In the result, this petition is allowed. The prosecution against the petitioner herein in S.C.No.1054 of 2013 of the II Additional Assistant Sessions Court, Thiruvananthapuram will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioner will stand released from prosecution, and the bail bond, if any, executed by him will stand discharged.

Sd/-
P.UBAID
JUDGE

rkj

//TRUE COPY//

P.A. TO JUDGE