

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 8TH DAY OF OCTOBER 2015/16TH ASWINA, 1937

Crl.MC.No. 6585 of 2015 ()

**C.C.NO. 803/2015 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-I.,CHANGANACHERRY
CRIME NO. 241/2007 OF CHANGANACHERRY POLICE STATION , KOTTAYAM**

PETITIONER/ACCUSED NO.1:

**SABY JOHN, AGED 39 YEARS,S/O. YOHANNAN,
PATTARUMADATHIL HOUSE, ELIAS JUNCTION, KUNNAMTHANAM VILLAGE,
PATHANAMTHITTA DISTRICT.**

**BY ADVS.SRI.JACOB P.ALEX
SRI.JOSEPH PALEX**

RESPONDENTS/VICTIM AND STATE:

- 1. REENA ELIZABETH MATHEW, AGED 37 YEARS, D/O. MATHEW,
THOPPIL HOUSE, PALACE ROAD, CHANGANACHERRY, KOTTAYAM – 686 001.**
- 2. STATE OF KERALA, REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA – 682 031.**

**R1 BY ADV. SRI.GEORGE VARGHESE(PERUMPALLIKUTTIYIL)
R BY PUBLIC PROSECUTOR SMT. SHEEBA M.T.**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
08-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' ANNEXURE:

- ANNEXURE I: FINAL REPORT IN CRIME NO. 241/2007 OF CHANGANACHERRY POLICE STATION.
- ANNEXURE II: COMPROMISE PETITION EXECUTED BY 1ST RESPONDENT AND THE PARENTS OF PETITIONER.
- ANNEXURE III: COPY OF DEPOSITION DATED 24.08.2015 BY 1ST RESPONDENT IN CC NO.478/2011 BEFORE JFCM-I, CHANGANACHEERY.
- ANNEXURE IV: COPY OF JUDGMENT IN CC NO. 478/2011 BEFORE JFCM-I, CHANGANACHEERY.
- ANNEXURE V: AFFIDAVIT DATED 27.08.2015 BY THE 1ST RESPONDENT.

RESPONDENT(S)' ANNEXURE: NIL

/TRUE COPY/

P.A. TO JUDGE

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P.UBAID, J.

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Crl.M.C.No.6585 of 2015

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Dated this the 8th day of October, 2015

ORDER

The petitioner herein is the original accused No.1 in C.C.No.478 of 2011 of the Judicial First Class Magistrate Court-I, Changanacherry. The other accused Nos.2 and 3 faced trial before the learned Magistrate, and obtained a judgment of acquittal on 10.09.2015. The offence involved in this case is under Section 498(A) of the Indian Penal Code. The other accused obtained a judgment of acquittal under Section 248(1) Cr.P.C. when all the material witnesses turned hostile to the prosecution in view of an amicable settlement made by the parties out of court. The prosecution examined three witnesses in the said case, and also marked Ext.P1 and P2. None of the material witnesses examined in the case supported the prosecution. In such a circumstance, examination of the others was dispensed with and evidence was closed by the trial court. In the absence of any evidence

or incriminating circumstance, the learned Magistrate acquitted the accused Nos.2 and 3. The case against the petitioner was split up and re-filed as C.C.No.803 of 2015. The petitioner now seeks orders quashing the prosecution as against him on the ground that the very substratum of the prosecution case is totally lost by the acquittal of the others, and continuance of prosecution against him will not serve any purpose. Annexure-IV judgment in C.C.No.478 of 2011 shows that all the material witnesses examined by the prosecution in the said case turned hostile in view of an amicable settlement made by the parties out of court. In such a situation, it is quite definite that the prosecution cannot in any manner improve the case, and the witnesses also cannot in any manner help the prosecution, if the case against the petitioner goes to trial. In short, such proceeding will be a sheer waste of time.

3. In fact, even otherwise the prosecution is liable to be quashed, because, the defacto complainant has filed affidavit to the effect that whole case stands settled amicably out of Court, and that she has no grievance or complaint now. It is submitted that the marriage stands dissolved, and the

victim has already remarried. In such a situation, there is no meaning in continuing the prosecution against the petitioner herein.

In the result, this petition is allowed. The prosecution against the petitioner in C.C.No.803 of 2015 of the Judicial First Class Magistrate Court-I, Changanacherry 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

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//TRUE COPY//

P.A. TO JUDGE