

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 13TH DAY OF OCTOBER 2015/21ST ASWINA, 1937

CrI.MC.No. 6678 of 2015 ()

**SC 937/2010 of I ADDITIONAL SESSIONS COURT, THIRUVANANTHAPURAM
CRIME NO. 327/2009 OF POTHENCODE POLICE STATION, THIRUVANANTHAPURAM**

PETITIONER/ACCUSED:

**FAIZAL, AGED 25 YEARS
S/O.ASHARAF, M.V. HOUSE, THYKKAVU MUKKU
NEAR KANIYAPURAM MUSLIM MOSQUE, PADINJARAMUKKU DESOM
KADINAMKULAM VILLAGE, THIRUVANANTHAPURAM.**

BY ADV. SRI.SHAJIN S.HAMEED

RESPONDENTS/STATE, CW1 & CW2:

- 1. STATE OF KERALA
REPRESENTED THROUGH THE SUB INSPECTOR OF POLICE
POTHENCODE POLICE STATION
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM 682 031.**
 - 2. VIJAYAKUMARN NAIR, AGED 54 YEARS
S/O.VASUDEVAN NAIR, KANNANCODE VEEDU
MARIPPANCODE, UDIYARAMOOLA MURI
AYIROOPPARA VILLAGE, THIRUVANANTHAPURAM 695 101.**
 - 3. ATHIRA P NAIR, AGED 23 YEARS
D/O.PRASANNAKUMARI, KANNANCODE VEEDU, MARIPPANCODE
UDIYARAMMOOLA MURI, AYIROOPPARA VILLAGE
THIRUVANANTHAPURAM 695 101.**
- R2-R3 BY ADV. SRI.HRITHWIK
R1 BY PUBLIC PROSECUTOR SRI. JUSTIN JACOB**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 13-10-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

**ANNEXURE A. COPY OF THE FINAL REPORT IN CRIME NO.327/2009 OF POTHENCODE
POLICE STATION.**

**ANNEXURE B. COPY OF THE CERTIFICATE OF MARRIAGE ISSUED BY THE MARRIAGE
OFFICER, KAZHAKUTTOM.**

ANNEXURE C. COPY OF THE AFFIDAVIT EXECUTED BY THE 2ND RESPONDENT/CW2.

ANNEXURE D. COPY OF THE AFFIDAVIT EXECUTED BY THE 3RD RESPONDENT/CW3.

RESPONDENTS' EXHIBITS

NIL

TRUE COPY

P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.6678 of 2015

Dated this the 13th day of October, 2015

O R D E R

The petitioner herein is the accused in S.C.No.937/2010 of the 1st Additional 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 Section 366 A IPC on the complaint of one Vijayakumaran Nair, who is the 2nd respondent in this proceeding brought under Section 482 of the Code of Criminal Procedure. He has filed affidavit to the effect that he has settled the whole dispute with the accused, and he has no grievance or complaint now. The victim of offence (3rd respondent in this proceeding) has also filed affidavit to the effect that she has settled the whole dispute with the accused, and she has no grievance or complaint now. This is in fact a case of elopement. The petitioner and the victim had been in love for a long time, and on a determination to get married, they left the place. The crime happened to be registered for the reason that

the girl was aged below 18 years at that time. The victim's affidavit shows that later the accused married her, and that they are now leading a very happy matrimony. I am well satisfied that the petitioner and the victim are now leading a very happy matrimonial life with a small offspring born in the wedlock, and if the prosecution continues, or if the victim is now exposed to a trial process, it will definitely defile their happy matrimony. She has now come to terms with the petitioner in the best interest of the family. Annexure-B copy of the marriage certificate shows that she was married by the petitioner on 14.11.2011. 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 petitioner herein in S.C.No.937/2010 of the 1st Additional 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

sd