

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 27TH DAY OF OCTOBER 2015/5TH KARTHIKA, 1937

Crl.MC.No. 6704 of 2015 ()

CRIME NO. 336/2015 OF THAMARASSERY POLICE STATION , KOZHIKODE DISTRICT

PETITIONERS/ACCUSED 1 AND 2:

- 1. SUBAIR, AGED 30 YEARS
S/O THOTTATHIL ABU(LATE), PARAKKAL HOUSE
UNNIKULAM.P.O, THAMARASSERY TALUK, KOZHIKODE DISTRICT.**
- 2. RUQIYA, AGED 50 YEARS
W/O.LATE THOTTATHIL ABU, PARAKKAL HOUSE
UNNIKULAM.P.O, THAMARASSERY TALUK, KOZHIKODEDISTRICT.**

BY ADV. SRI.LUIZ GODWIN D COUTH

RESPONDENTS/STATE/DEFACTO COMPLAINANT:

- 1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. MUMTHAS, AGED 22 YEARS
W/O.SUBAIR, VELLARI KUZHIYIL VEEDU, NOORAMTHODU.P.O
THAMARASSERY TALUK, KOZHIKODE DISTRICT, PIN-673586.**

**R2 BY ADV. SRI.JOSE KURIAKOSE (VILANGATTIL)
R1 BY PUBLIC PROSECUTOR SRI. JUSTIN JACOB**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 27-10-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONERS' EXHIBITS

**ANNEXURE-A TRUE COPY OF THE F.I.R.NO.336/15 REGISTERED BY THE
THAMARASSERY POLICE.**

ANNEXURE-B TRUE COPY OF THE AFFIDAVIT SWORN BY THE 2ND RESPONDENT.

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY //

P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.6704 of 2015

Dated this the 27th day of October, 2015

O R D E R

The petitioners seek orders quashing the F.I.R and further proceedings in Crime No.336/2015 of the Thamarassery Police Station, registered under Sections 406, 498-A, 420, 323, 307 and 506(ii) IPC read with Section 34 IPC, on the complaint of one Mumthas. Orders are sought on the ground of amicable settlement of the whole dispute between the accused and the de facto complainant out of court. The de facto complainant Mumthas 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.

2. Both the parties appeared before me in open court, as directed. On interacting with the parties, I find that the 2nd respondent made the complaint against the petitioners on some misapprehension. She affirmed in open court that nothing serious as alleged in the complaint had happened, and that the present

case is the result of some misapprehension. She also submitted that she is now very happy with her husband and a small son born in the wedlock. The victim's affidavit shows that the whole matrimonial dispute stands resolved forever, she has joined her husband in matrimony, and that she is now leading a very happy matrimonial life with her husband. On interacting with her in open court, I am satisfied of the truth of the averments. Though serious offences like one under Section 309 IPC is alleged in the complaint, I find, on interacting with the victim, that these allegations are in fact exaggerated versions made as a result of the strained relationship. Now, the whole dispute stands resolved forever. In such a situation, it is appropriate that the prosecution be quashed.

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; be it at the crime stage or at the trial stage or even at the appellate or revision stage; if the parties have really settled the whole dispute, or if continuance of prosecution will not serve any purpose. Here, I find a real case of settlement between the parties, and I also find that continuance of prosecution in such a situation will not serve any purpose other

than wasting the precious time of the court, when the case ultimately comes before the court.

In the result, this petition is allowed. The F.I.R and further proceedings in Crime No.336/2015 of the Thamarassery Police Station will stand quashed under Section 482 of the Code of Criminal Procedure.

Sd/-
P. UBAID, JUDGE

sd

// True Copy //

P.A. to Judge