

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 16TH DAY OF OCTOBER 2015/24TH ASWINA, 1937

Crl.MC.No. 6759 of 2015 ()

**AGAINST THE ORDER/JUDGMENT IN SC 1271/2014 of PRINCIPAL SUB
COURT,KOLLAM**

CRIME NO. 781/2011 OF PARAVOOR POLICE STATION , KOLLAM

PETITIONER(S)/ACCUSED:

- 1. SUBHASH VIJAYAN, AGED 33 YEARS,
S/O.VIJAYAN, POOPPARAMBIL VEEDU, PALAPRA,
KANJIRAPPALLY, KOTTAYAM.**
- 2. VIJAYAN, AGED 56 YEARS,
S/O.NARAYAN, POOPPARAMBIL VEEDU, PALAPRA,
KANJIRAPPALLY, KOTTAYAM.**
- 3. VALSALA, AGED 53 YEARS,
W/O.VIJAYAN, POOPPARAMBIL VEEDU, PALAPRA,
KANJIRAPPALLY, KOTTAYAM.**
- 4. SUBHA, AGED 31 YEARS,
D/O.VIJAYAN, POOPPARAMBIL VEEDU, PALAPRA,
KANJIRAPPALLY, KOTTAYAM.**

**BY ADVS.SRI.K.SIJU
SMT.S.SEETHA**

RESPONDENT(S)/COMPLAINANT& STATE:

- 1. STATE OF KERALA,
REPRESENTED BY SUB INSPECTOR OF POLICE,
KANJIRAPPALLY POLICE STATION,
THROUGH PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.**
- 2. SARANYA, AGED 27 YEARS,
D/O.CHANDRIKA DEVI, ITTITUVILA VEEDU, KOTTAPPURAM,
PARAVOR P.O., KOLLAM.**

**R2 BY ADV. SRI.A.MUHAMMED RAFFI
R1 BY SMT.SHEEBA M.T, PUBLIC PROSECUTOR**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
16-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

DG

Crl.MC.No. 6759 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS:

**ANNEXURE 1: TRUE COPY OF THE FIR IN CRIME NO.781/2011 OF PARAVOOR
POLICE STATION, ALONG WITH THE PRIVATE COMPLAINT.**

**ANNEXURE 2: TRUE COPY OF THE FINAL REPORT IN CRIME NO.781/2011 OF
PARAVOOR POLICE STATION.**

**ANNEXURE 3: THE AFFIDAVIT SWORN BY THE 2ND RESPONDENT
REGARDING THE COMPROMISE DATED 17.06.2015.**

RESPONDENT(S)' EXHIBITS - NIL

//TRUE COPY//

P.A TO JUDGE

P. UBAID, J.

Crl.M.C.No.6759 of 2015

Dated this the 16th day of October, 2015

O R D E R

The petitioners herein are the accused in S.C. No.1271/2014 of the Assistant Sessions Court, Kollam. They seek 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 Sections 498A, 452, 511 and 376 read with 34 IPC, on the complaint of one Saranya, 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. Her affidavit shows that the whole matrimonial dispute stands resolved forever, and that they have decided to file application for divorce under Section 13 B of the Hindu Marriage Act, in terms of the compromise. I am satisfied that the victim's claim also stands settled. On a perusal of the case records, I find nothing definite to constitute the offence of attempted rape as alleged in the complaint. It appears that the allegations, in fact, came as part of the matrimonial dispute. Any way, the parties have now come to

terms, and the victim does not want to prosecute the matter further. 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 petitioners herein in S.C. No.1271/2014 of the Assistant Sessions Court, Kollam, 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

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