

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 30TH DAY OF OCTOBER 2015/8TH KARTHIKA, 1937

Crl.MC.No. 6851 of 2015

CC 204/2008 of J.M.F.C.,NILAMBUR

CRIME NO. 31/2008 OF VAZHIKKADAVU POLICE STATION, MALAPPURAM

PETITIONER(S)/ACCUSED:

**LATHEEF, S/O. MOIDEENKUTTY,
PARIYARATH HOUSE, MULLAMPARA,
MANJERI, MALAPPURAM DISTRICT.**

BY ADV. SRI.K.RAKESH

RESPONDENT(S)/STATE & DEFACTO COMPLAINANT :-

- , **1. THE STATE OF KERALA.**
 REPRESENTED BY THE PUBLIC PROSECUTOR,
 HIGH COURT OF KERALA, ERNAKULAM,
 KOCHI - 682 031 THROUGH THE SUB INSPECTOR OF POLICE,
 VAZHIKKADAVU POLICE STATION, MALAPPURAM DISTRICT.
- 2. HAFSATH, D/O. MUHAMMED, KOZHIPPADAN HOUSE, VENGAPADAM,**
 NILAMBUR TALUK, MALAPPURAM DISTRICT - 679 328.

R2 BY ADV. SMT.K.NISHA
R1 BY SRI.JUSTIN JACOB, PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 30-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

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APPENDIX

PETITIONER(S)' ANNEXURES :-

**ANNEXURE A - TRUE COPY OF THE FINAL REPORT/CHARGE IN CRIME NO. 31/2008
OF THE VAZHIKKADAVU POLICE STATION.**

**ANNEXURE B - TRUE COPY OF THE JUDGEMNT IN CC NO. 204/2008 ON THE FILES OF
THE J.F.C.M., NILAMBUR DATED 11.8.2009.**

**ANNEXURE C - TRUE COPY OF THE AFFIDAVIT SWORN TO BY THE 2ND
RESPONDENT DATED 15.10.2015.**

RESPONDENT(S)' ANNEXURES :- NIL

//TRUE COPY//

P.A. TO JUDGE

rkj

P.UBAID, J.

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Crl.M.C.No.6851 of 2015
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Dated this the 30th day of October, 2015

ORDER

The petitioner herein is the second accused in Crime No.31 of 2008 of the Vazhikkadavu Police Station, Malappuram, registered under Sections 406 and 498A IPC. He is the husband of the defacto complainant, who made complaint. The first accused is his father. The first accused (father) faced trial before the learned Judicial First Class Magistrate Court, Nilambur in C.C.No.204 of 2008, and obtained a judgment of acquittal on merits under Section 482 Cr.P.C. on 11.08.2009. The case against the petitioner herein was split up and re-filed as C.C.No.332 of 2009, when he absconded. The case now stands transferred to the register of long pending case as L.P.No.7 of 2011. Now, the petitioner seeks orders quashing the prosecution as against him on the ground of amicable settlement of the whole

dispute out of Court.

2. The second respondent herein is the defacto complainant. She has filed affidavit to the effect that the whole dispute stands settled amicably out of Court, and she has no grievance or complaint now. The petitioner does not seek orders on the ground of acquittal of the first accused. He seeks orders on the ground of settlement. The victim's affidavit shows that the whole dispute in matrimony stands resolved forever, and her claims also stand settled. It is submitted that the marriage stands dissolved. In such a situation, it is appropriate that the prosecution be quashed. No doubt, continuance of the prosecution against the petitioner herein will be a sheer waste of time because nobody will support the prosecution, if the case goes to trial. The Honourable Supreme Court has held in so many decisions that in such circumstances, where continuance of the prosecution will not serve any purpose, the High Court can quash the prosecution under Section 482 Cr.P.C.

In the result, the petition is allowed. The prosecution against the petitioner herein in C.C.No.332 of 2009 of the

Judicial First Class Magistrate Court, Nilambur which stands now transferred to the register of long pending case as L.P.No.7 of 2011 will stand quashed under Section 482 Cr.P.C.

rkj

Sd/-
P.UBAID
JUDGE

//TRUE COPY//

P.A. TO JUDGE