

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 27TH DAY OF NOVEMBER 2015/6TH AGRAHAYANA, 1937

Crl.MC.No. 6857 of 2015 ()

**SC 686/2014 of DISTRICT & SESSIONS COURT, PALAKKAD
CRIME NO. 420/2014 OF MANKARA POLICE STATION , PALAKKAD**

PETITIONERS/ACCUSED 1 & 3:

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- 1. PRASANTH, AGED 19 YEARS
S/O. BALAN, POONCHIRY HOUSE, PERADIKKUNNU
NAGARIPURAM, MANNUR, PALAKKAD DISTRICT.**
 - 2. MUKESH, AGED 21 YEARS
S/O. MADHAVAN, PANARKOTTIL HOSUE, PERADIKKUNNU
NAGARIPURAM, MANNUR, PALAKKAD DISTRICT.**

BY ADV. SRI.P.JAYARAM

RESPONDENTS:

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- 1. STATE OF KERALA
REPRESENTED BY PUBLI PROSECTOR, HIGH COURT OF KERALA
ERNAKULAM - 682 031.**
 - 2. SHAHIDA, AGED 14 YEARS
D/O. MUHAMMED, AVILINKUNDU HOUSE, PERADIKKUNNU
MANNUR, NAGARIPURAM P.O., PALAKKAD DISTRICT
REP. BY FATHER/GUARDIAN, MUHAMMED
S/O. VEERAN, MOOCHIKKAL HOUSE, CHUNANGAD AMSOM DESOM
P.O.CHUNANGAD, OTTAPALAM TALUK
PALAKKAD DISTRICT - 679 511.**
 - 3. SUHARA, W/O. MUHAMMED, AVILINKUNDU HOUSE
PERADIKKUNNU, MANNURM, NAGARIPURAM P.O.
PALAKKAD DISTRICT - 678 642.**
 - 4. RIYAS, S/O. MOIDEENKUTTY, AVILINKUNDU HOUSE
PERADIKKUNNU, MANNUR, NAGARIPURAM P.O.
PALAKKAD DISTRICT - 678 642.**

**R2,3,4 BY ADV. SRI.A.HAROON RASHEED
R1 BY PUBLIC PROSECUTOR SRI. JUSTIN JACOB**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 27-11-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONERS' EXHIBITS

- A1 - COPY OF THE FIRST INFORMATION REPORT AND FIRST INFORMATION STATEMENT IN CRIME NO.420/2014, MANKARA POLICE STATION.**
- A2 - COPY OF THE FINAL REPORT/CHARGE SHEET SUBMITTED BY THE POLICE IN CRIME NO. 420/2014 MANKARA POLICE STATION BEFORE THE SESSIONS COURT, PALAKKAD.**
- A3 - COPY OF THE MEMORANDUM OF EVIDENCE SUBMITTED BY THE POLICE IN CRIME NO. 420/2014 MANKARA POLICE STATION BEFORE THE SESSIONS COURT, PALAKKAD.**
- A4 - COPY OF THE SUMMONS RECEIVED BY THE 1ST PETITIONER/1ST ACCUSED IN S.C O. 686/2014 FROM DISTRICT & SESSIONS COURT, PALAKKAD.**
- A4(a) COPY OF THE SUMMONS RECEIVED BY THE 2ND PETITIONER/3RD ACCUSED IN S.C O. 686/2014 FROM DISTRICT & SESSIONS COURT, PALAKKAD.**
- A5 - AFFIDAVIT DT. 15.10.2015 SWORN TO AND EXECUTED BY THE DEPONENT/2ND RESPONDENT.**
- A6 - AFFIDAVIT DT. 15.10.2015 SWORN TO AND EXECUTED BY THE DEPONENT/3RD RESPONDENT.**
- A7 - AFFIDAVIT DT. 15.10.2015 SWORN TO AND EXECUTED BY THE DEPONENT/4TH RESPONDENT.**

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY //

P.A. TO JUDGE

SD

P. UBAID, J.

CrI.M.C.No.6857 of 2015

Dated this the 27th day of November, 2015

O R D E R

The petitioners herein are the accused Nos.1 and 3 in Crime No.420/2014 of the Mankara Police Station. The 2nd accused is a juvenile. The police submitted final report against the accused Nos.1 and 3 in the Court of Session, Palakkad, and against the juvenile before the Juvenile Justice Board. The case against the petitioners is now pending in S.C.No.686/2014 before the Court of Session, Palakkad. The petitioners seek orders quashing the prosecution on the ground of amicable settlement out of court. The offences involved are under Sections 294(b), 323, 324, 341, 354(D) and 506(ii) read with 34 IPC and under 12 of the Protection of Children from Sexual Offences Act, 2012. One of the victims is a juvenile. She is the 2nd respondent in this proceeding, and the respondents 3 and 4 are the other victims including the defacto complainant. The party respondents have filed affidavit to the effect that the whole dispute stands settled amicably out of court, and that they have no grievance or complaint now. The police was required to make an enquiry and submit report

regarding the settlement reported to court. Now, there is police report that the whole dispute stands settled out of court amicably, and that the complainant had also given a statement accordingly to the police.

2. In so many decisions, the Honourable Supreme Court has held that even in cases involving non-compoundable offences, the High Court can quash the prosecution, if the parties have really settled the whole dispute amicably, and continuance of the prosecution will not serve any purpose other than wasting the precious time of the court.

3. Here, on a perusal of the materials including the complaint, I find that practically this is only a case of assault on persons including a juvenile. It is well settled that a mere incident of assault on a woman will not constitute the offence punishable under Section 354 IPC in any form. As regards Section 294(b) IPC also, it stands well settled that for such a prosecution, there must be the essential elements of obscenity as defined under the law. Here, I do not find any such material for such a prosecution. Of course, materials are there, as regards the other offences under Sections 341, 323, 324 and 506(ii) IPC, and practically these are the offences revealed by the prosecution records. Any way, the

whole dispute now stands resolved forever between the parties, and nobody has any grievance or complaint now. The police has already reported about the truth and genuineness of the settlement reported to court. In such a situation, I find that continuance of the prosecution will be a sheer waste of time, because nobody will support the prosecution in any manner, if the case goes to trial.

In the result, this petition is allowed. The prosecution against the petitioner in S.C.No.686/2014 before the Court of Session, Palakkad will stand quashed under Section 482 Cr.P.C.

Sd/-
P. UBAID, JUDGE

sd

// True Copy // P.A. to Judge