

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 16TH DAY OF DECEMBER 2015/25TH AGRAHAYANA, 1937

CrI.MC.No. 6884 of 2015 ()

CRIME NO. 538/2013 OF VENGARA POLICE STATION , MALAPPURAM DISTRICT

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PETITIONER/ACCUSED:

**FATHIMA MARUTHIL, AGED 58 YEARS
W/O.MOIDEENKUTTY, POOVTHUM PARAMBIL HOUSE
GREEN COTTAGE, MAMMIL PILAKKAL, KOORIYAD P.O.
MALAPPURAM-676306.**

BY ADV. SRI.DINESH MATHEW J.MURICKEN

RESPONDENTS/COMPLAINANT/VICTIM/PARENTS OF VICTIM::

- 1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. SHAIK TAISIN, AGED 18 YEARS
S/O.SHAIK ADAM SETH, DOOR NO.1/252, GAREEB NAGAR
KURNOOL P.O., ANDHRA PRADESH, PIN 518001.**
- 3. SHAIK ADAM SETH, AGED 62 YEARS
S/O.ALLAH KASMILLA, DOOR NO.1/252, GAREEB NAGAR
KURNOOL P.O., ANDHRA PRADESH, PIN 518001.**
- 4. SUBAIDABEE, AGED 42 YEARS
W/O.SHAIK ADAM SETH, DOOR NO.1/252, GAREEB NAGAR
KURNOOL P.O., ANDHRA PRADESH, PIN 518001.**
- 5. MOHAMMED SALIH
AGE AND FATHER'S NAME NOT KNOWN, CENTRE CO-ORDINATOR
CHILD LINE, MALAPPURAM DISTRICT, PIN 676505.**

**R2-R4 BY ADV. SRI.N.R.SANGEETHARAJ
R1 BY PUBLIC PROSECUTOR SRI. JUSTIN JACOB**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 16-12-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

**ANNEXURE-A1: TRUE COPY OF THE FIRST INFORMATION REPORT IN CRIME
NO.538/2013 OF VENGARA POLICE STATION DATED 28.08.2013.**

**ANNEXURE-A2: TRUE COPY OF THE FINAL REPORT IN CRIME NO.538/2013 OF
VENGARA POLICE STATION.**

**ANNEXURE-A2(A): LEGIBLE COPY OF THE FINAL REPORT IN CRIME NO.538/2013 OF
VENGARA POLICE STATION.**

**ANNEXURE-A3: TRUE COPY OF THE BIRTH CERTIFICATE ISSUED FROM THE
KURNOORL MUNICIPAL CORPORATION DATED 21.03.2014.**

**ANNEXURE-A4: TRUE COPY OF THE AFFIDAVIT SWORN BY THE 2ND RESPONDENT
DATED 13.07.2015.**

**ANNEXURE-A5: TRUE COPY OF THE AFFIDAVIT SWORN BY THE 3RD RESPONDENT
DATED 13.07.2015.**

**ANNEXURE-A6: TRUE COPY OF THE AFFIDAVIT SWORN BY THE 4TH RESPONDENT
DATED 13.07.2015.**

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY //

P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.6884 of 2015

Dated this the 16th day of December, 2015

O R D E R

The petitioner seeks orders quashing the prosecution against him in S.C.No.381/2014 of the Court of Session, Manjeri involving the offences under Sections 23 and 26 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (for short, 'the J.J.Act), on the ground of amicable settlement made out of court. The victim of offence was aged 14 years at the time of the alleged incident. It is submitted that she is now aged 18 years. She is the 2nd respondent herein. The 3rd and 4th respondents herein are the parents of the victim girl. The 5th respondent is the person who made complaint in this case. The victim and her parents have filed affidavit to the effect that the whole dispute stands amicably settled out of court.

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 come to terms amicably, and if continuance of the prosecution will not

serve any purpose provided the prosecution does not involve any public issue or any public interest. Here even otherwise, I find that the prosecution does not have any satisfactory materials for a successful culmination. The complaint or the final report does not show the nature of the job alleged. The victim was admittedly between 14 years and 18 years at the time of incident. A prosecution under Section 26 of the J.J.Act is possible only on the allegation that the juvenile victim was employed for some hazardous job, without making prompt and proper payment of adequate wages. Such definite allegations are not there in the complaint or in the final report. The casual allegation is that the child was employed for some domestic works. It is nowhere alleged that it was hazardous in nature, or that she was being financially exploited. The complaint or final report also does not show how exactly the juvenile was harassed by the petitioner. Thus, I find that the prosecution records do not contain the necessary elements for a successful prosecution. Any way, the parties have come to terms amicably. They have no grievance or complaint now. I find that continuance of the prosecution in such

a situation will not serve any purpose, other than wasting the precious time of the court.

In the result, this petition is allowed. The petitioner in C.C.No.381/2014 of the Court of Session, Manjeri, will stand quashed under Section 482 Cr.P.C.

Sd/-

P. UBAID, JUDGE

sd

// True Copy //

P.A. to Judge