

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 28TH DAY OF OCTOBER 2015/6TH KARTHIKA, 1937

Crl.MC.No. 6935 of 2015 ()

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CC 956/2014 of JUDICIAL FIRST CLASS MAGISTRATE COURT-V, MATTANCHERY
CRIME NO. 369/2013 OF MATTANCHERRY POLICE STATION , ERNAKULAM DISTRICT
=====**

PETITIONERS/ACCUSED 1-2/STATE:

- 1. ZIYAD K.S., AGED 35 YEARS, S/O. SHERIEF
KARINGAMTHURUTHIL HOUSE, KELA SAIT PARAMBU
LOBO JUNCTION, MATTANCHERY VILLAGE
KOCHI TALUK, ERNAKULAM DISTRICT, PIN-682002**
- 2. ALEEMA, AGED 54 YEARS, W/O. SHERIEF
KARINGAMTHURUTHIL HOUSE, KELA SAIT PARAMBU
LOBO JUNCTION, MATTANCHERY VILLAGE
KOCHI TALUK, ERNAKULAM DISTRICT, PIN-680220**

BY ADV. SRI.R.O.MUHAMED SHEMEEM

RESPONDENTS/DEFACTO COMPLAINANT:

- 1. SUB INSPECTOR OF POLICE, MATTANCHERY POLICE STATION
MATTANCHERY, KOCHI-2**
- 2. BABITHA, AGED 21 YEARS, D/O. BABU, H.NO.6/770
ASRAJ BUILDING, BAZAR ROAD, MATTANCHERY VILLAGE
KOCHI TALUK, ERNAKULAM DISTRICT, KOCHI-2**
- 3. STATE OF KERALA, REPRESENTED BY THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM**

**R2 BY ADV. SMT.K.BHAVYA GOPAL
R1 AND R3 BY PUBLIC PROSECUTOR SMT. SHEEBA M.T.**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28-10-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONERS' EXHIBITS

ANNEXURE 1 COPY OF FINAL REPORT IN C.C.NO.956/2014 PENDING BEFORE THE JUDICIAL 1ST CLASS MAGISTRATE COURT-5, MATTANCHERY, IN CRIME NO.369/2013 OF MATTANCHERY POLICE STATION

ANNEXURE 2 COPY OF FIR IN CRIME NO.369/2013 OF MATTANCHERY POLICE STATION

ANNEXURE 3 COPY OF SETTLEMENT AGREEMENT DATED 21.06.2014 BETWEEN THE 1ST PETITIONER AND 2ND RESPONDENT

ANNEXURE 4 COPY OF THE AFFIDAVIT OF 2ND RESPONDENT/DEFACTO COMPLAINANT

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY //

P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.6935 of 2015

Dated this the 28th day of October, 2015

O R D E R

The petitioners herein are the accused in C.C.No.956/2014 of the Judicial First Class Magistrate Court-V, Mattanchery. 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 498-A IPC, on the complaint of one Babitha, 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, that she is divorced in terms of the settlement, and that she has re-married. In such a situation, it is appropriate that the pending 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 C.C.No.956/2014 of the Judicial First Class Magistrate Court-V, Mattanchery 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

sd

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