

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 29TH DAY OF OCTOBER 2015/7TH KARTHIKA, 1937

Crl.MC.No. 6957 of 2015 ()

**CRIME NO. 2348/2010 OF ERNAKULAM TOWN NORTH POLICE STATION, ERNAKULAM
DISTRICT**

PETITIONER/ACCUSED:

**SIJU A.S., AGED 40 YEARS, S/O. SIVASANKARAN NAIR
AT PRESENT RESIDING AT D.D. GOLDEN GATE
FLAT NO.711 G, PALACHUVADU, KAKKANAD - 682030**

BY ADV. SMT.P.RANI DIOTHIMA

RESPONDENTS/STATE AND DEFACTO COMPLAINANT:

**1. STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM, KOCHI – 682031**

**2. NIRMALA SIJU, AGED 33 YEARS, W/O. SIJU
RESIDING AT D.D. GOLDEN GATE, FLAT NO. 711 G
PALACHUVADU, KAKKANAD-682030**

R2 BY ADV. SMT.MARY BEENA JOSEPH

R1 BY PUBLIC PROSECUTOR SMT. SHEEBA M.T.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 29-10-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

- | | |
|--------------------|--|
| ANNEXURE A1 | COPY OF THE MARRIAGE CERTIFICATE DATED 26.03.2015
ISSUED BY THE MARRIAGE OFFICER, EDAPPALLY |
| ANNEXURE A2 | COPY OF THE CERTIFIED COPY OF THE FINAL REPORT FILED
IN CRIME NO.2348/2010 BEFORE THE HONOURABLE A.C.J.M.
COURT (EO), ERNAKULAM IN CP 19/15 |
| ANNEXURE A3 | COPY OF THE AFFIDAVIT EXECUTED BY THE 2ND
RESPONDENT DATED 27.10.2015 |

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY //

P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.6957 of 2015

Dated this the 29th day of October, 2015

O R D E R

The petitioner herein is the accused in C.P.No.19/2015 of the Additional Chief Judicial Magistrate Court, Ernakulam. He seeks orders quashing the prosecution on the ground of amicable settlement of the whole dispute between him and the de facto complainant. Crime in this case was registered under Sections 496, 313 and 497 IPC, on the complaint of one Nirmala Siju, 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 dispute is in fact a matrimonial dispute, though some serious offences are seen alleged. It is submitted that as part of the settlement arrived at, the petitioner has legally married the victim, and that they are now leading a happy married life. Annexure A1 is the copy of the marriage certificate. I find that the whole dispute between the petitioner and the victim stands resolved forever. Thus, 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 petitioner herein in C.P.No.19/2015 of the Additional Chief Judicial Magistrate Court, Ernakulam will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioner will stand released from prosecution and the bail bond, if any, executed by him will stand discharged.

Sd/-
P. UBAID, JUDGE

sd

// True Copy //

P.A. to Judge