

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 18TH DAY OF NOVEMBER 2015/27TH KARTHIKA, 1937

Crl.MC.No. 7051 of 2015 (F)

CRIME NO. 795/2014 OF KODAL POLICE STATION, PATHANAMTHITTA

PETITIONER(S)/ACCUSED NOS.1 AND 2 :-

- 1. PARAMESWARAN NAIR, AGED 64 YEARS,
S/O. KESAVAN NAIR, RENJITH BHAVAN, KANJICODE,
KALANJOOR MURI, KALANJOOR VILLEGGE, KONNI TALUK.**
- 2. VIJAYA LAKSHMI, AGED 55 YEARS,
W/O. PARAMESWARAN NAIR, RENJITH BHAVAN, KANJICODE,
KALANJOOR MURI, KALANJOOR VILLEGGE, KONNI TALUK.**

BY ADV. SRI.AJEESH K.SASI

RESPONDENT(S)/DEFACTO COMPLAINANT & STATE :-

- 1. MALLIKA, AGED 42 YEARS, D/O. KUNJIKKUTTY,
PARAYIL VEEDU, KANCHODU, KALANJOOR,
KONNI TALUK, PATHANAMTHITTA DISTRICT - 689691.**
- 2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM- 682 031.**

**R1 BY ADV. SRI.V.A.JOHNSON (VARIKKAPPALLIL)
R2 BY SMT.SHEEBA M.T., PUBLIC PROSECUTOR**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 18-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

rkj

Crl.MC.No. 7051 of 2015 (F)

APPENDIX

PETITIONER(S)' ANNEXURES :-

ANNEXURE A : TRUE COPY OF THE F.I.R IN CRIME NO 795/2014 OF KODAL POLICE STATION.

ANNEXURE B : THE AFFIDAVIT SWORN IN BY THE DEFACTO COMPLAINT (CW1)/1ST RESPONDENT SIGNIFYING THE FACTUM OF SETTLEMENT COMPOSITION OF THE DISPUTES WITH THE PETITIONERS.

RESPONDENT(S)' ANNEXURES :- NIL

//TRUE COPY//

P.A. TO JUDGE

rkj

P.UBAID, J.

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Crl.M.C.No.7051 of 2015
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Dated this the 18th day of November, 2015

ORDER

The petitioners herein are husband and wife. They are involved in a prosecution under Sections 376 and 201 IPC. The defacto complainant in the crime was a housemaid in the house of the petitioners. The housemaid made a complaint that she was impregnated by the first petitioner herein under a promise of marriage when the second petitioner was away abroad, and when she became pregnant, the petitioners manipulated documents showing that somebody else is the father of the child. On the allegation of sexual intercourse under a false promise, the police registered the crime under Sections 376 and 201 IPC. The said prosecution in Crime No.795 of 2014 of the Koodal Police Station is sought to be quashed on the ground of amicable settlement of the whole dispute out of court. The first respondent herein is the victim

of offence. She has filed affidavit to the effect that the whole dispute stands settled out of court, and that she has no grievance or complaint. As directed from the court, she appeared in person, and explained the circumstances of the settlement. On interacting with the parties including the victim, I find that this is not in fact a case of rape. I find that whatever transpired or happened between the victim and the first petitioner is purely consensual. When the first petitioner denied the paternity of the child, the victim thought of making a complaint alleging rape. Anyway, now the whole dispute stands resolved forever on the intervention of persons acceptable to both sides.

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; if the parties have settled the whole dispute, or if 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. The victim has settled the whole dispute with the petitioners, and she is satisfied with the amount of compensation

received, including the huge amount paid for the child born in the wedlock. This is not a case of sexual intercourse without consent, or against the will of the victim. I find that the settlement reported to court is acceptable in the particular facts and circumstances.

In the result, this petition is allowed. The FIR and the further proceedings in Crime No.795 of 2014 of Koodal Police Station will stand quashed under Section 482 Cr.P.C.

Sd/-

**P.UBAID
JUDGE**

rkj

//TRUE COPY//

P.A. TO JUDGE