

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 16TH DAY OF NOVEMBER 2015/25TH KARTHIKA, 1937

Crl.MC.No. 7229 of 2015

**C.C. No.405/2014 of J.M.F.C.-II, MANANTHAVADY
CRIME NO.33/2011 OF PADINJARETHARA POLICE STATION , WAYANAD**

PETITIONER/1ST ACCUSED:

**ABDUL NOUSHAD, AGED 35 YEARS,
S/O. KUNHIPOKKER, KAVUNGUMPURATHU HOUSE, CHENNALLOOR,
KAVUMANDAM, WAYANAD DISTRICT.**

BY ADV. SRI. V.SHYAM

RESPONDENT(S)/COMPLAINANT & STATE:

- 1. RUKHIYA MIRSANA, AGED 25 YEARS,
D/O.USMAN MUSLIAR, KUNINGARATH HOUSE, VELLAMUNDA P.O.,
WAYANAD DISTRICT - 670 731.**
- 2. STATE OF KERALA,
REPRESENTED BY THE S.I. OF POLICE,
PADINJARETHARA POLICE STATION-CRIME NO. 33/2011
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.**

**R1 BY ADV. SRI. ARUN AJAY SHANKAR
R2 BY PUBLIC PROSECUTOR SMT. SHEEBA.M.T**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
16-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE A1: CERTIFIED COPY OF THE FINAL REPORT DATED 11.03.2011 IN C.C.NO.226/2015 ON THE FILE OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-II, MANANTHAVADY.

ANNEXURE A2: THE TRUE COPY OF THE JUDGMENT DATED 30.05.2014 IN C.C.NO.226/2015 ON THE FILE OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-II, MANANTHAVADY.

ANNEXURE A3: NOTARIED AFFIDAVIT DATED 03.10.2015 OF THE 1ST RESPONDENT.

RESPONDENT(S)' EXHIBITS - NIL

//TRUE COPY//

PA TO JUDGE

P. UBAID, J.

Crl.M.C. No. 7229 OF 2015

Dated this the 16th day of November, 2015

ORDER

The petitioner herein is the accused in C.C. No.226/2011 of the Judicial First Class Magistrate Court-II, Mananthavady. 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 406, 498 (A) r/w S.34 IPC on the complaint of one Rukhiya Mirsana who is the 1st 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.

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 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.

3. The victim's affidavit shows that the whole matrimonial disputes stands resolved, the victim has joined her husband in matrimony. The other accused

already stand acquittal on trial. In the above circumstance it is appropriate that the prosecution be quashed.

In the result, this petition is allowed. The prosecution against the petitioner herein in C.C. No.405/2014 of the Judicial First Class Magistrate's Court-II, Mananthavady 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