

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 21ST DAY OF DECEMBER 2015/30TH AGRAHAYANA,
1937

Cr1.MC.No. 7237 of 2015

IN S.C 48/2015 OF THE SESSIONS COURT, THODUPUZHA

CRIME NO. 995/2013 OF NEDUMKANDAM POLICE STATION, IDUKKI

PETITIONER:

USHAKUMARI M.NAIR, AGED 44 YEARS,
W/O.MADHUSUDHANAN NAIR, PUTHAN VEETIL HOUSE
NEDUMKANDAM, IDUKKI DISTRICT.

BY ADV. SMT.A.K.PREETHA

RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM 682 031
2. D.MAHESH KUMAR,
S/O.DAMODARAN, MALAYIL HOUSE, KARINKUNNAM,
THODUPUZHA, IDUKKI DISTRICT. 686 661.
3. ABIJITH, AGED 16 YEARS,
S/O.D.MAHESH KUMAR, MALAYIL HOUSE,
KARINKUNNAM, THODUPUZHA,
IDUKKI DISTRICT - 686 661
REPRESENTED BY FATHER D.MAHESH KUMAR.

R2 BY ADV. SRI.M.R.RAJESH

R1 BY PUBLIC PROSECUTOR SMT.SHEEBA M.T

THIS CRIMINAL MISC. CASE HAVING COME UP FOR
ADMISSION ON 21-12-2015, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING:

Cr1.MC.No. 7237 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE 1. COPY OF THE FINAL REPORT FILED U/S. 173(2)
CRPC DATED 29.9.14.

ANNEXURE 2. COPY OF THE AGREEMENT ENTERED BETWEEN THE 2ND
RESPONDENT AND PETITIONER DATED 13.3.14.

S

ANNEXURE A1: STATEMENT OF THE COMPLAINANT

ANNEXURE A2: STATEMENT OF THE ACCUSED

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

ab

P.UBAID, J.

Crl.M.C No. 7237 of 2015

Dated this the 21st day of December, 2015

O R D E R

The petitioner herein is the sole accused in S.C No.48/2015 of the Court of Session, Thodupuzha, involving the offence under Section 23 of the Juvenile Justice Act and under Section 3(1)(x) of the Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act. He seeks orders quashing the prosecution on the ground of settlement out of court. The third respondent herein is the victim of offence, and the second respondent is the guardian who made complaint against the petitioner. The second respondent has filed affidavit to the effect that the whole dispute stands resolved forever, and that he or his son has no complaint or grievance now. Even otherwise, I find, on a perusal of the materials, that continuance of the prosecution will be a sheer abuse of legal process. The complaint or the final report does not contain anything under Section 23 of the Juvenile Justice Act. For such a prosecution the prosecution must prove that the juvenile was subjected to mental or physical harassment. A mere abuse made on an occasion will not attract such a prosecution. As regards the offence alleged under the SC/ST Act I find that the complaint or final report does not contain the essentials.

For such a prosecution, the accused must have abused or humiliated a member of any scheduled caste or tribe with the object of abusing him as such member, and the alleged offence must have been committed within public view. Such essentials are lacking in this case. A mere abuse made by the accused will not attract a prosecution under Section 3(1)(x) of the SC/ST Act also. Anyway, the parties have come to terms and the whole dispute stands resolved forever. In such a situation, continuance of the prosecution will cause harm and hardship to both the parties.

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 the prosecution will not serve any purpose in such a circumstance of amicable settlement.

In the result, this petition is allowed. The prosecution against the petitioner herein in S.C No.48/2015 of the Court of Session, Thodupuzha will stand quashed under Section 482 of the Code of Criminal Procedure.

**P.UBAID
JUDGE**

ab