

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 1ST DAY OF DECEMBER 2015/10TH AGRAHAYANA, 1937

Cr1.MC.No. 7284 of 2015

IN C.C 158/2013 OF THE CHIEF JUDICIAL MAGISTRATE COURT,
ALAPPUZHA
CRIME NO. 406/2012 OF ALAPPUZHA NORTH POLICE STATION,
ALAPPUZHA

PETITIONERS/ACCUSED NO.1 TO 5:

1. SANIL,
AGED 36, S/O.KOYA, FAZILAS,
ASRAMAM WARD, AVALUKKUNNU P.O, ALAPPUZHA.
2. KOYA
AGED 60, S/O.ALIKUNJU, FAZILAS,
ASRAMAM WARD, AVALUKKUNNU P.O, ALAPPUZHA.
3. MUMTHAZ,
AGED 58, W/O.KOYA, FAZILAS,
ASRAMAM WARD, AVALUKKUNNU P.O, ALAPPUZHA.
4. FAZILA,
AGED 39, W/O.AFZAL, KANDATHIL,
KARUKAYIL WARD, AVALUKKUNNU P.O, ALAPPUZHA.
5. AFZAL,
AGED 44, S/O.ABDULLAKUNJU, KANDATHIL,
KARUKAYIL WARD, AVALUKKUNNU P.O, ALAPPUZHA.

BY ADV. SRI.P.SHANES METHAR

RESPONDENTS/STATE AND COMPLAINANT:

1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM. 682 031.
2. SHIFA S.RAWTHER, W/O.SAKKIR HUSSAIN,
AL-NOOR, SINGAPORE DUTY PAID SHOP,
NEAR MOTHER SUSAN SCHOOL, MANJOOR, PATHANAPURAM
KOLLAM - 690 125.

R1 BY PUBLIC PROSECUTOR SRI.JUSTIN JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 01-12-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

APPENDIX

PETITIONERS' ANNEXURES:

ANNX.I - COPY OF THE FIR IN CRIME NO.406/2012 OF ALAPPUZHA
NORTH POLICE STATION, ALAPPUZHA.

ANNX.II - COPY OF CHARGE SHEET IN CRIME SHEET IN CC
NO.158/2013 ON THE FILE OF CHIEF JUDICIAL MAGISTRATE COURT,
ALAPPUZHA

ANNX.III - COPY OF THE AWARD IN O.P.726/2012 ON THE FILE OF
FAMILY COURT KOTTAYAM AT ETTUMANOOR.

ANNX.IV - COPY OF THE AWARD IN O.P.NO.21/2013 ON THE FILE OF
FAMILY COURT KOTTAYAM AT ETTUMANOOR.

ANNX.V - COPY OF THE COMPROMISE AGREEMENT ENTERED BETWEEN 1ST
PETITIONER AND 2ND RESPONDENT DATED 23.03.2013

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

ab

P.UBAID, J.

Crl.M.C No.7284 of 2015

Dated this the 1st day of December, 2015

O R D E R

The petitioners herein are the five accused in C.C No.158/2013 of the Chief Judicial Magistrate Court, Alappuzha, involving the offences under Sections 498A and 506 (1) of the Indian Penal Code. They seek orders quashing the prosecution on the ground of amicable settlement of the whole dispute out of court. The second respondent herein is the defacto complainant, who made the complaint against the petitioners. She remained absent inspite of notice. She did not turn up to dispute the document on which the petitioners rely. Annexure 3 and 4 documents will show that the other disputes regarding the properties and custody of children stand settled amicably. Annexure 5 is the original agreement on the basis of which the other cases were settled. Annexure 5 shows amicable settlement of the whole dispute out of court. In terms of such settlement, an award was passed by the Lok Adalath in the Original Petitions brought for return of ornaments and custody of children. The agreement shows that the marriage stands dissolved by pronouncement of Talaq and the victim has received

all her dues under the law. This agreement shows that the whole dispute including the present prosecution stands settled amicably 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 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. Here, I find a real and genuine case of settlement between the parties. The defacto complainant and her husband have parted ways in terms of the settlement, and the marriage also stands dissolved. Her claims under the special law meant for the protection of divorced Muslim women, also stands adequately settled. It would be appropriate to quash the pending prosecution in such a situation.

In the result, this petition is allowed. The prosecution against the petitioners herein in C.C No.158/2013 of the Chief Judicial Magistrate Court, Alappuzha will stand quashed under Section 482 of the Code of Criminal Procedure.

ab

Sd/-
P.UBAID,
JUDGE

//True Copy//