

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 26TH DAY OF NOVEMBER 2015/5TH AGRAHAYANA, 1937

Crl.MC.No. 7318 of 2015

SC 135/2014 of ADDITIONAL SESSIONS COURT (FORMER ADHOC-I), MANJERI

CRIME NO. 405/2013 OF AREACODE POLICE STATION, MALAPPURAM

PETITIONER(S)/ACCUSED :-

**BASHEER @ SAMEER, S/O.IBRAHIM,
KALIYADATH KAVUNGALTHODI HOUSE, MUNDAMBRA,
KADUNGALLUR, UGRAPURAM, MALAPPURAM DISTRICT.**

BY ADV. SRI.BABU S. NAIR

RESPONDENT(S)/STATE & DEFACTO COMPLAINANT :-

**1. THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM,
KOCHI - 682 031 FOR THE SUB INSPECTOR OF POLICE,
AREACODE POLICESTATION, MALAPPURAM DISTRICT.**

**2. SUMAYYA PANOLI, D/O.ABOOBACKER,
PANOLI HOUSE, KAVANOR,
MALAPPURAM DISTRICT, PIN - 673 644.**

**R2 BY ADV. SRI.P.A.RAJESH
R1 BY SRI.JUSTIN JACOB, PUBLIC PROSECUTOR**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 26-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' ANNEXURES :-

**ANNEXURE-A : TRUE COPY OF THE F.I.R IN CRIME NO.405/2013 OF THE AREACODE
POLICE STATION DATED 4.7.2013.**

**ANNEXURE-B : TRUE COPY OF THE STATEMENT GIVEN BY THE 2ND RESPONDENT
BEFORE THE J.F.C.M., MANJERI, DATED 5.7.2013.**

**ANNEXURE-C : TRUE COPY OF THE CHARGE IN S.C.NO.135/2014 OF THE
ADDITIONAL SESSIONS COURT (FAST TRACK COURT NO-I),
MANJERI.**

**ANNEXURE-D : TRUE COPY OF THE AFFIDAVIT SWORN TO BY THE 2ND
RESPONDENT DATED 31.8.2015.**

RESPONDENT(S)' ANNEXURES :- NIL

//TRUE COPY//

P.A. TO JUDGE

rkj

P.UBAID, J.

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Crl.M.C.No.7318 of 2015
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Dated this the 26th day of November, 2015

ORDER

The petitioner herein is the sole accused in S.C.No.135 of 2014 of the Court of Session, Manjeri. The case is now before the learned Additional Sessions Judge(Former Adhoc-I), Manjeri. The offence involved in this case is under Section 376 IPC. The petitioner seeks orders quashing the prosecution on the ground of amicable settlement of the whole dispute out of court. The second respondent herein is the victim of offence. She has filed affidavit to the effect that the whole dispute stands resolved forever, and that she has no grievance or complaint. As directed from the court, the victim appeared in person, and explained the circumstances of the settlement reported to Court, that she came to terms quite voluntarily in her best interest, and she submitted that

continuance of the prosecution will defile her present matrimony. After the alleged incident, the second respondent herein married one Benny Varghese under the Special Marriage Act, and the original marriage certificate was shown during the proceedings. The victim's husband also appeared in Court, and explained the circumstances of the reported settlement. On interacting with the victim and her husband, I find that if the prosecution continues, it will cause embarrassment to them, it will cause problems in their matrimony, and it may even defile their present happy matrimony. I find that the victim came to terms, and settled the whole dispute in the best interest of her own family.

2. On a perusal of the complaint, I find something suspicious regarding the rape alleged in this case. There is reason to believe that everything that happened between them was in fact consensual. Anyway, the whole dispute now stands resolved and settled forever, and the victim does not want a prosecution, when she is happy in matrimony with another person.

In the result, this petition is allowed. The prosecution against the petitioner in S.C.No.135 of 2014 before the

Additional Sessions Court-I, Manjeri will stand quashed under
Section 482 Cr.P.C.

Sd/-
P.UBAID
JUDGE

rkj

//TRUE COPY//

P.A. TO JUDGE