

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 3RD DAY OF DECEMBER 2015/12TH AGRAHAYANA, 1937

Crl.MC.No. 7351 of 2015 ()

**AGAINST CC no.718/2012 of JUDICIAL FIRST CLASS MAGISTRATE COURT,
KAYAMKULAM
CRIME NO. 135/2011 OF KAYAMKULAM POLICE STATION , ALAPPUZHA**

PETITIONER(S)/ACCUSED 1 & 2 :

- 1. BIJU USMAN, AGED 40 YEARS,
S/O.USMANKUTTY, RESIDING AT CHANDANAVELIL,
PERINGALA,
KAYAMKULAM, ALAPPUZHA DISTRICT, PIN-690 502.**
- 2. SUBAIDA, AGED 69 YEARS,
W/O.USMANKUTTY, RESIDING AT CHANDANAVELIL, PERINGALA
KAYAMKULAM, ALAPPUZHA DISTRICT, PIN-690 502.**

**BY ADVS.SRI.K.SHAJ
SRI.SAJJU.S
SRI.RENJIT GEORGE
SMT.ANJU MOHAN
SRI.S.VISHNU (ARIKKATTIL)
SRI.C.IJLAL**

RESPONDENT(S)/STATE AND CW1:

- 1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-31.**
- 2. SHEETHA B., AGED 40 YEARS
D/O.KHADEEJA BEEVI, RESIDING AT CHANDANAVELIL
PERINGALA, KAYAMKULAM, ALAPPUZHA DISTRICT
PIN-690 502.**

**BY PUBLIC PROSECUTOR SMT. SHEEBA M.T.
R2 BY ADV. SRI. SERGI JOSEPH THOMAS**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
03-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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Crl.MC.No. 7351 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

**ANNEXURE A1 : THE CERTIFIED COPY OF THE CHARGE SHEET IN CC 718/2012 OF
THE JUDICIAL FIRST CLASS MAGISTRATE COURT, KAYAMKULAM IN
CRIME NO.135/2011 OF KAYAMKULAM POLICE STATION.**

**ANNEXURE A2: AN AFFIDAVIT SWORN BY THE SECOND RESPONDENT STATING THE
SETTLEMENT OF ALL THE DISPUTES.**

RESPONDENT(S)' EXHIBITS : NIL

/ TRUE COPY /

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P.A. TO JUDGE

P.UBAID, J.

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CrI.M.C.No.7351 of 2015
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Dated this the 3rd day of December, 2015

ORDER

The petitioners herein are the two accused in C.C.No.718 of 2012 of the Judicial First Class Magistrate Court, Kayamkulam. They seek orders quashing the prosecution on the ground of amicable settlement of the whole dispute between them and the de facto complainant. Crime in this case was registered under Section 498(A) read with Section 34 of the Indian Penal Code on the complaint of one Sheetha B., who is the 2nd 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 the 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, and I am satisfied that the parties are now on quite cordial terms. 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 dispute stands resolved forever. It is submitted from both sides that the victim has joined her husband in matrimony in terms of the settlement arrived at, and that she is now very happy with her husband. In such a situation, it is appropriate that the pending prosecution be quashed.

In the result, this petition is allowed. The prosecution against the petitioners herein in C.C.No.718 of 2012 of the Judicial First Class Magistrate Court, Kayamkulam will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly,

the petitioners will stand released from prosecution, and the bail bond, if any, executed by them will stand discharged.

Sd/-
P.UBAID
JUDGE

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//TRUE COPY//

P.A. TO JUDGE