

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 23RD DAY OF NOVEMBER 2015/2ND AGRAHAYANA, 1937

Crl.MC.No. 7364 of 2015

CC 319/2010 of J.M.F.C., MALAPPURAM

CRIME NO. 75/2010 OF MALAPPURAM POLICE STATION, MALAPPURAM

PETITIONER(S)/ACCUSED :-

- 1. MOOSA, AGED 40 YEARS,
S/O.POOVALLOOR AZEEZ HAJI,
REPRESENTED BY POWER OF ATTORNEY
HOLDER AZEEZ HAJI.**
- 2. AZEEZ HAJI, 70 YEARS, S/O.MOIDEENKUTTY.**
- 3. FATHIMA, 63 YEARS, W/O.POOVALLOOR AZEEZ HAJI.**

**(ALL ARE RESIDING AT POOVALLOOR HOUSE,
PONMALA, MELMURI PO, CHAPPANANGADI,
TIRUR TALUK, MALAPPURAM DISTRICT).**

BY ADV. SRI.P.SAMSUDIN

RESPONDENT/DE-FACTO COMPLAINANT/STATE :-

- 1. RASEENA, AGED 31 YEARS,
D/O.POOVALLOOR KUNJAHAMMED HAJI,
PONAMALA PO-676 528,
OTHUKKUNGAL (VIA), PONMALA AMSOM DESOM,
TIRUR TALUK, MALAPPURAM DISTRICT.**
- 2. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM - 682 031.**

**R1 BY ADV. SRI.DEVAPRASANTH.P.J.
R2 BY SRI.JUSTIN JACOB, PUBLIC PROSECUTOR**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 23-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' ANNEXURES :-

**ANNEXURE A1 : TRUE COPY OF FIR AND CHARGE MEMO IN CRIME NO.75/2010
OF MALAPPURAM POLICE STATION.**

**ANNEXURE A2 : TRUE COPY OF THE SETTLEMENT DATED 28.10.2015 ARRIVED AT
BETWEEN THE PARTIES IN THE MEDIATION.**

**ANNEXURE A3 : THE AFFIDAVIT SWORN IN BY 1ST RESPONDENT DATED
28.10.2015.**

RESPONDENT(S)' ANNEXURES :- NIL

//TRUE COPY//

P.A. TO JUDGE

rkj

P.UBAID, J.

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Crl.M.C.No.7364 of 2015
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Dated this the 23rd day of November, 2015

ORDER

The petitioners herein are the three accused in C.C.No.319 of 2010 of the Judicial First Class Magistrate Court, Malappuram. 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 Sections 498A and 406 read with Section 34 of the Indian Penal Code on the complaint of one Raseena, 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 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. 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, and that the marriage stands dissolved by pronouncement of talaq. The victim has received her dues under the Special Law giving protection to divorced women. In such a situation, it is appropriate that the prosecution be quashed.

In the result, this petition is allowed. The prosecution against the petitioners herein in C.C.No.319 of 2010 of the Judicial First Class Magistrate Court, Malappuram 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.

rkj

Sd/-
P.UBAID
JUDGE

//TRUE COPY//

P.A. TO JUDGE