

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

CrI.MC.No. 7371 of 2015

SC 787/2012 of ADDL.SESIONS COURT, KOZHIKODE

CRIME NO. 23/2010 OF KOYILANDY POLICE STATION, KOZHIKODE

PETITIONER/ACCUSED :-

**SHAMEER, AGED 27 YEARS,
S/O.MOIDI, SAMEER MANSIL,
MOOZHIKKUMEETHAL, NATERI.**

BY ADV. SMT.K.DEEPA

RESPONDENT(S)/STATE & COMPLAINANT :-

- 1. STATE OF KERALA, REP.BY
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. JAMSHEEDA, 23 YEARS, D/O.MAYAN,
KUNNATHU RASHEEDA MANZIL,
MOOZHIKKUMEETHAL, NATERI.**
- 3. MAYAN, KUNNATHU, 52 YEARS,
S/O.KUNHIPARIYI, MOOZHIKKUMEETHAL,
NATERI.**

**R2 BY ADV. SMT.CELINE JOSEPH
R1 BY SMT.SHEEBA M.T., PUBLIC PROSECUTOR**

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

rkj

Crl.MC.No. 7371 of 2015

APPENDIX

PETITIONER(S)' ANNEXURES :-

**ANNEXURE I :- CERTIFIED COPY OF THE FIR OF CRIME NO.23/2010 OF THE
KOYILANDY POLICE STATION, KOZHIKODE.**

**ANNEXURE II :- CERTIFIED COPY OF THE FINAL REPORT OF CRIME NO.23/2010
OF THE KOYILANDY POLICE STATION, KOZHIKODE.**

**ANNEXURE III :- TRUE COPY OF THE AGREEMENT BETWEEN THE PARTIES
REGARDING SETTLEMENT OF THE CASE.**

ANNEXURE IV :- AFFIDAVIT FILED BY THE 2ND RESPONDENT.

RESPONDENT(S)' ANNEXURES :- NIL

//TRUE COPY//

P.A. TO JUDGE

rkj

P.UBAID, J.

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Crl.M.C.No.7371 of 2015
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Dated this the 23rd day of November, 2015

ORDER

The petitioner herein is the sole accused in S.C.No. 787 of 2012 of the First Additional Sessions Court, Kozhikode. He seeks orders quashing the prosecution on the ground of amicable settlement of the whole dispute between him and the de facto complainant. Crime in this case was registered under Sections 452, 354 and 506(ii) of the Indian Penal Code on the complaint of one Jamsheeda, 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. The third respondent is the father of the defacto complainant. He has also filed affidavit accepting settlement in view of the fact that the second respondent was aged only 17

years as on the date of the alleged incident. Now, she is aged 23 years, and she is competent to settle the dispute on her own. On a perusal of the complaint, I find that this is not really a case of outrage of the modesty of woman, but only a case of assault which will not by itself come under Section 354 IPC. Anyway, the parties have resolved the whole dispute between them.

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.

In the result, this petition is allowed. The prosecution against the petitioner herein in S.C.No. 787 of 2012 of the First Additional Sessions Court, Kozhikode will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioner will stand released from prosecution, and the bail bond, if any, executed by him will stand discharged.

rkj

Sd/-
P.UBAID
JUDGE

//TRUE COPY//

P.A. TO JUDGE