

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 27TH DAY OF NOVEMBER 2015/6TH AGRAHAYANA,
1937

Cr1.MC.No. 7394 of 2015

CRIME NO. 535/2014 OF AMBALATHARA POLICE STATION,
KASARGOD

PETITIONER/ACCUSED:

BALAKRISHNAN, AGED 75 YEARS,
S/O LATE KANNAN, EACHITHADAM, CHALINGAL,
PULLUR VILLAGE, HARIPURAM. P.O,
KASARAGOD DISTRICT

BY ADV. SRI.S.VISHNU (TRIPUNITHURA)

RESPONDENTS/COMPLAINANT:

1. CHEERU, AGED 65 YEARS,
D/O LATE CHIRUTHA, KANATHIL HOUSE, CHALINGAL,
HARIPURAM. P.O, PULLUR VILLAGE, HOSDURG TALUK
KASARAGOD DISTRICT
2. STATE OF KERALA
RERPESETNED BY THE S.I POLICE (CRIME 535/14)
AMBALATHARA POLICE STATION)
RERPESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682 031

R1 BY ADV. SRI.N.K.MANOJ KUMAR

R2 BY PUBLIC PROSECUTOR SRI.JUSTIN JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR
ADMISSION ON 27-11-2015, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING:

Cr1.MC.No. 7394 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A1: COPY OF THE FIR IN CRIME 535/14 OF
AMBALATHARA POLICE STATION

ANNEXURE A11: CERTIFIED COPY OF THE COMPLAINT FILED BY
R1

ANNEXURE A111: AFFIDAVIT SWORN BY R1 TH DEFACTO
COMPLAINANT IN ANNEXURE-1

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.7394 of 2015

Dated this the 27th day of November, 2015

O R D E R

The petitioner herein, a senior citizen aged 75 years has been facing criminal proceeding in Crime No.535/2014 of the Ambalathara Police Station, on a complaint brought by a lady aged 65 years alleging the offences of rape and cheating. Her own case is that the product of the said rape, that occurred years back, is now 45 years; a woman with her own family consisting of husband and children. The whole issue now stands settled and resolved forever. The defacto complainant who brought the said complaint has now abandoned her complaint, and she does not want to prosecute the matter further. In such a circumstance, the accused seeks orders quashing the FIR and further proceedings in the said crime.

2. The first respondent herein is the defacto complainant. She has filed affidavit to the effect that the whole dispute stands amicably out of court and that she has no grievance or complaint now. The affidavit shows that the parties came to terms on the intervention of persons acceptable to them

including the president of the Pullur Periya Grama Panchayat. On a perusal of the complaint that lead to the crime, I find that the complaint of the 2nd respondent is fully suspicious. Her case is that she was raped by the petitioner herein in August 1970. Now we are in 2015. She brought complaint in 2014, when the product of rape was admittedly 45 years old. The complaint does not contain any satisfactory explanation for the delay of 44 years in making the complaint. Much thought or probe is not required to find that continuance of such a prosecution will only waste the precious time of the police and the court. Anyway, the parties have now come to terms and the whole issue stands resolved.

In the result, this petition is allowed. The FIR and further proceedings in Crime No.535/2014 of the Ambalathara Police Station of Kasaragod District will stand quashed under Section 482 of the Code of Criminal Procedure.

**Sd/-
P.UBAID
JUDGE**

//True Copy//

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P.A to Judge