

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. 7434 of 2015 ()

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CC 243/2014 of JUDICIAL FIRST CLASS MAGISTRATE COURT (FOR FOREST
OFFENCES), NEDUMANGAD
CRIME NO. 836/2013 OF VITHURA POLICE STATION , THIRUVANANTHAPURAM
DISTRICT
=====**

PETITIONER/ACCUSED NOS.1,3,4&5:

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- 1. JAGAN, AGED 30 YEARS, S/O.VELAPPAN
VENKAVILAYIAL VEEDU, KANCHAMPURAM
VILAVANKODE TALUK, KANYAKUMARI DISTRICT**
 - 2. MARIYA SWARNAM, AGED 61 YEARS
W/O.VELAPPAN, VENKAVILAYIL VEEDU, KANCHAMPURAM
VILAVANKODE TALUK, KANYAKUMARI DISTRICT**
 - 3. VIJILA, AGED 32 YEARS, D/O.MARIYA SWARNAM
VENKAVILAYIL VEEDU, KANCHAMPURAM
VILAVANKODE TALUK, KANYAKUMARI DISTRICT
FROM VIRALUVILA VEEDU, KANYAKUMARI DISTRICT**
 - 4. RAVI, AGED 39 YEARS, S/O.CHELLAN
VENKAVILAYIL VEEDU, KANCHAMPURAM
VILAVANKODE TALUK, KANYAKUMARI DISTRICT
FROM VIRALUVILA VEEDU, KANYAKUMARI DISTRICT**

BY ADV. SRI.R.B.RAJESH

RESPONDENTS/STATE:

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- 1. THE STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM 31**
 - 2. PRABHA, AGED 30 YEARS, D/O. ACHAMMA
STALIN BHAVAN, ERAYANCODE, THOLICODE VILLAGE
NEDUMANGAD TALUK, THIRUVANANTHAPURAM DISTRICT
NOW RESIDING AT VENKAVILAYIL VEEDU
KANCHAMPURAM, VILAVANKODE TALUK, KANYAKUMARI DISTRICT**

R2 BY ADV. SRI.M.ABDUL RASHEED

R1 BY PUBLIC PROSECUTOR SRI. JUSTIN JACOB

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 26-11-
2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONERS' EXHIBITS

**ANNEXURE I: TRUE COPY OF THE DEATH CERTIFICATE OF LATE VELAPPAN (2ND
ACCUSED) DATED 03.02.2014 ISSUED BY THE DEPARTMENT OF
PUBLIC HEALTH, TAMIL NADU**

**ANNEXURE II: TRUE COPY OF THE FINAL REPORT IN CRIME NO.836/2013 OF
VITHURA POLICE STATION, (NOW PENDING AS CC.NO.243/2014/13
PENDING BEFORE THE JFCM (FOR FOREST OFFENCES)
NEDUMANGAD**

**ANNEXURE III: NOTARIZED AFFIDAVIT SWORN BY THE 2ND RESPONDENT DATED
21.11.2015**

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY //

P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.7434 of 2015

Dated this the 26th day of November, 2015

O R D E R

The petitioners herein are the accused Nos.1,3,4 and 5 in C.C.No.243/2014 of the Judicial First Class Magistrate Court (for Forest offences), Nedumangad. The 2nd accused died pending the proceedings, and the charge against the 2nd accused thus abated. The petitioners 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 323 and 498-A IPC, on the complaint of one Prabha, 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. Her affidavit shows that the whole matrimonial dispute stands resolved forever, and that she has joined her husband in matrimony in terms of the settlement arrived at out of court. In such a situation, it is appropriate that the prosecution be quashed.

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.

In the result, this petition is allowed. The prosecution against the petitioners herein in C.C.No.243/2014 of the Judicial First Class Magistrate Court (for Forest offences), Nedumangad, 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