

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. 7446 of 2015 ()

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CC 51/2005 of JUDICIAL FIRST CLASS MAGISTRATE COURT-II, NEYYATTINKARA
CRIME NO. 232/2004 OF VIZHINJAM POLICE STATION, THIRUVANANTHAPURAM
DISTRICT
=====**

PETITIONERS/ACCUSED NOS.1 &2:

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- 1. ANIL C., AGED 36 YEARS, S/O.CHANDRA SEKHARAN
CHANDRA VIHAR, PARAVILA, PACHALLOOR
THIRUVALLAM VILLAGE, THIRUVANANTHAPURAM.**
 - 2. CHANDRASEKHARAN, AGED 36 YEARS
S/O.VELUKUTTY, CHANDRA VIHAR, PARAVILA
PACHALLOOR, THIRUVALLAM VILLAGE, THIRUVANANTHAPURAM**

**BY ADVS.SRI.S.RAJEEV
SRI.K.K.DHEERENDRAKRISHNAN
SRI.V.VINAY**

RESPONDENTS/STATE/INFORMANT:

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- 1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA
ERNAKULAM 682 031 (CRIME NO. 232/2004
OF VIZHINJAM POLICE STATION
THIRUVANANTHAPURAM DISTRICT).**
 - 2. SMITHA NATH, AGED 36 YEARS
D/O.GOPINATHAN, HOUSE NO.317, TOWNSHIP COLONY
PULLOORKONAM, VIZHINJAM
THIRUVANANTHAPURAM DISTRICT. 695 024.**

**R2 BY ADV. SRI.VINOD KUMAR.C
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. COPY OF THE FINAL REPORT IN CRIME NO. 232/04 OF VIZHINJAM
POLICE STATION.**

**ANNEXURE II. COPY OF THE AFFIDAVIT DATED 17.11.15 SWORN BY THE SECOND
RESPONDENT DULY ATTESTED BY NOTARY PUBLIC.**

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY //

P.A.TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.7446 of 2015

Dated this the 26th day of November, 2015

O R D E R

The petitioners herein are the accused Nos.1 & 2 in C.C.No.51/2005 of the Judicial First Class Magistrate Court-II, Neyyattinkara. The 3rd accused died pending the proceedings, and thus the charge against the 3rd accused 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 420 and 498-A read with 34 IPC, on the complaint of one Smitha Nath, 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. It is submitted that the parties have already filed joint application for divorce before the Family Court under Section 13B of the Hindu Marriage Act. 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.51/2005 of the Judicial First Class Magistrate Court-II, Neyyattinkara, 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. UBA ID, JUDGE

sd

// True Copy //

P.A. To Judge