

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

Crl.MC.No. 7484 of 2015

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CC 1194/2013 of J.M.F.C.-II, KOCHI**

CRIME NO. 2023/2010 OF THOPPUMPADY POLICE STATION, ERNAKULAM

PETITIONER(S)/ACCUSED 1-3 :-

- 1. M.A.ABEESH, AGED 31 YEARS, S/O.M.A.ABOO,
RESIDING AT CC NO.16/107, MALOTH HOUSE,
TAGORE ROAD, THOPPUMPADY RAMESWRAM VILLAGE,
KOCHI TALUK, ERNAKULAM DISTRICT.**
- 2. M.A.ABOO, AGED 56 YEARS, S/O.ABDU REHIMAN,
RESIDING AT CC NO.16/1077, MALOTH HOUSE,
TAGORE ROAD, THOPPUMPADY RAMESWARAM VILLAGE,
KOCHI TALUK, ERNAKULAM DISTRICT.**
- 3. JAMEELA, AGED 50 YEARS,
M.A.ABOO, RESIDING AT CC NO.16/1077, MALOTH HOUSE,
TAGORE ROAD, THOPPUMPADY RAMESWARAM VILLAGE,
KOCHI TALUK, ERNAKULAM.**

BY ADV. SRI.R.O.MUHAMED SHEMEEM

RESPONDENT(S)/DEFACTO COMPLAINANT :-

- 1. SUB INSPECTOR OF POLICE,
THOPPUMPADY POLICE STATION,
THOPPUMPADY, KOCHI-5.**
- 2. JASNA.K.H., AGED 23 YEARS,
D/O.HAMSA KOYA, RESIDING AT CC NO.23/669-A,
KALLIVALAPPIL HOUSE, THANGAL NAGAR DESOM,
PALLURUTHY, EDAKOCHI VILLAGE, KOCHI TALUK - 682004.**
- 3. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

**R2 BY ADV. SMT.N.P.RUKSANA
R BY SRI.JUSTIN JACOB, PUBLIC PROSECUTOR**

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

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APPENDIX

PETITIONER(S)' ANNEXURES :-

ANNEXURE-1: CERTIFIED COPY OF FINAL REPORT IN CC NO.1194/2013 PENDING BEFORE THE JUDICIAL 1ST CLASS MAGISTRATE COURT-II, KOCHI, IN CRIME NO.2023/2010 OF THOPPUMPADY POLICE STATION.

ANNEXURE-2: CERTIFIED COPY OF FIR IN CRIME NO.2023/2010 OF THOPPUMPADY POLICE STATION.

ANNEXURE-3: TRUE COPY OF SETTLEMENT AGREEMENT DATED 21.11.2015 BY AND BETWEEN THE 1ST PETITIONER AND 2ND RESPONDENT.

ANNEXURE-4: TRUE COPY OF THE AFFIDAVIT DATED 22.11.2015 OF 2ND RESPONDENT/DEFACTO COMPLAINANT.

RESPONDENT(S)' ANNEXURES :- NIL

//TRUE COPY//

P.A. TO JUDGE

rkj

P.UBAID, J.

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Crl.M.C.No.7484 of 2015
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Dated this the 27th day of November, 2015

ORDER

The petitioners herein are the three accused in C.C.No.1194 of 2013 of the Judicial First Class Magistrate Court-II, Kochi. 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 Section 498A read with Section 34 of the Indian Penal Code on the complaint of one Jasna K.H., 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.

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 the marriage stands dissolved by pronouncement of talaq. The affidavit also shows that the victim has received all her dues under the law as a divorced Muslim woman. 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.1194 of 2013 of the Judicial First Class Magistrate Court-II, Kochi 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**

rkj

//TRUE COPY//

P.A. TO JUDGE