

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 1ST DAY OF DECEMBER 2015/10TH AGRAHAYANA, 1937

Crl.MC.No. 7538 of 2015 ()

AGAINST THE JUDGMENT IN RP 177/2015 of HIGH COURT OF KERALA DATED 30-09-2015

**IN CMP 1642/2010 of JUDICIAL FIRST CLASS MAGISTRATE COURT-I, ALUVA
CRIME NO. 3717/2010 OF ALUVA EAST POLICE STATION , ERNAKULAM**

PETITIONER(S):

- 1. NISHAD AGED 44 YEARS
S/O.ABU, KUTTIMAKKAL HOUSE, D.NO.B.W.NO.XVII
BUILDING NO.731, GROUND FLOOR, FEDERAL APARTMENTS
COMPANYPPADI, ALUVA
REPRESENTED BY HIS BROTHER AND POWER OF ATTORNEY HOLDER
NADISRHA, S/O ABU, AGED 48 YEARS, KUTTIMAKKAL HOUSE
D.NO.B.W.NO.XVII, BUILDING NO.731, GROUND FLOOR
FEDERAL APARTMENTS, COMPANYPPADI, ALUVA
ERNAKULAM DISTRICT.**
- 2. ABU AGED 68 YEARS
S/O.ABDUL RAHIMAN, KUTTIMAKKAL HOUSE, D.NO.B.W.NO.XVII
BUILDING NO.731, GROUND FLOOR, FEDERAL APARTMENTS
COMPANYPPADI, ALUVA, ERNAKULAM DISTRICT.**
- 3. SULEKHA AGED 62 YEARS
W/O.ABU, S/O.ABDUL RAHIMAN, KUTTIMAKKAL HOUSE
D.NO.B.W.NO.XVII, BUILDING NO.731, GROUND FLOOR
FEDERAL APARTMENTS, COMPANYPPADI, ALUVA
ERNAKULAM DISTRICT.**
- 4. ZEENATH NADISRHA AGED 34 YEARS
W/O.NADISRHA, NADUVILAPARAMBIL HOUSE, U C COLLEGE P.O.
ALUVA, ERNAKULAM DISTRICT.**

BY ADV. SRI.SHIJU VARGHESE

RESPONDENT(S):

- 1. SMERA, AGED 30 YEARS
W/O.NISHAD, KUTTIMAKKAL HOUSE,
GROUND FLOOR, FEDERAL APARTMENTS
COMPANYPPADI, ALUVA, ERNAKULAM DISTRICT.**

**2. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.**

**R1 BY ADV. SRI.MANOJ B.MENON
R2 BY SRI JUSTIN JACOB, PUBLIC PROSECUTOR**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 01-12-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 7538 of 2015 ()

APPENDIX

PETITIONERS' EXHIBITS:

- A1 : COPY OF THE FIR IN CRIME NO.3717/2010 PENDING BEFORE THE
HON'BLE J.F.C.M. COURT NO.I, ALUVA DATED 24.12.2010**
- A2 : COPY OF THE JUDGMENT IN RP NO.177/2015 IN CRL.R.P.NO.2458/2013
WIH MEDIATION SETTLEMENT AGREEMENT DATED 30.09.2015**
- A3 : AFFIDAVIT OF THE 1ST RESPONDENT DATED 12.11.2015.**

RESPONDENTS' EXHIBITS: N I L

//TRUE COPY//

P.A. TO JUDGE

JV

P.UBAID, J.

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Crl.M.C.No.7538 of 2015

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Dated this the 1st day of December, 2015

ORDER

The petitioners seek orders quashing the F.I.R and further proceedings in Crime No.3717 of 2010 of the Aluva East Police Station, registered under Section 498A of the Indian Penal Code on the complaint of one Smera. Orders are sought on the ground of amicable settlement of the whole dispute between the accused and the de facto complainant out of court. The de facto complainant is the 1st respondent in this proceeding brought under Section 482 of the Code of Criminal Procedure. Se has filed affidavit to the effect that she has settled the whole dispute with the accused, and she has no grievance or complaint.

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; be it at the crime stage or at the trial stage or even at the appellate or revision

stage; if the parties have really settled the whole dispute, or if continuance of the prosecution will not serve any purpose. Here, I find a real case of settlement between the parties, and I also find that continuance of the prosecution in such a situation will not serve any purpose other than wasting the precious time of the court, when the case ultimately comes before the court.

3. The victim's affidavit shows that the whole matrimonial dispute stands resolved forever. It is submitted that the marriage stands dissolved by pronouncement of talaq, and 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 pending prosecution be quashed.

In the result, this petition is allowed. The F.I.R and further proceedings in Crime No.3717 of 2010 of the Aluva East Police Station will stand quashed under Section 482 of the Code of Criminal Procedure.

Sd/-

**P.UBAID
JUDGE**

rkj

//TRUE COPY//

P.A. TO JUDGE