

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. 7541 of 2015 ()

IN CC 282/2008 of JUDICIAL FIRST CLASS MAGISTRATE COURT. - I, NORTH PARAVUR

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

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. NADISRHA
S/O.ABU, KUTTIMAKKAL HOUSE, D.NO.B.W.NO.XVII
BUILDING NO.731, GROUND FLOOR, FEDERAL APARTMENTS
COMPANYPPADI, ALUVA, ERNAKULAM DISTRICT.**
- 4. JUBAIRATH AGED 34 YEARS
W/O.NADISRHA, KUTTIMAKKAL HOUSE, D.NO.B.W.NO.XVII
BUILDING NO.731, GROUND FLOOR, FEDERAL APARTMENTS
COMPANYPPADI, 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 SMT.MADHUBEN, 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. 7541 of 2015 ()

APPENDIX

PETITIONERS' ANNEXURE:

- ANNEXURE 1: COPY OF THE CHARGE SHEET FILED IN CC NO.282/2008
PENDING BEFORE THE HON'BLE J.F.C.M. COURT NO.I, NORTH
PARAVOOR DATED 05.08.2008**
- ANNEXURE 2: COPY OF THE JUDGMENT IN RP NO.177/2015 IN CRL.R.P.
NO.2458/2013 WITH MEDIATION SETTLEMENT AGREEMENT
DATED 30.09.2015**
- ANNEXURE 3: AFFIDAVIT OF THE 1ST RESPONDENT DATED 12.11.2015**

RESPONDENTS' ANNEUXRE: N I L

//TRUE COPY//

P.A. TO JUDGE

JV

P.UBAID, J.

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Crl.M.C.No.7541 of 2015

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Dated this the 1st day of December, 2015

ORDER

The petitioners herein are the four accused in C.C.No.282 of 2008 of the Judicial First Class Magistrate Court-I, North Paravoor. 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 of the Indian Penal Code on the complaint of one Smera, who is the 1st 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. 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 prosecution against the petitioners herein in C.C.No.282 of 2008 of the Judicial First Class Magistrate Court-I, North Paravoor 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