

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 2ND DAY OF DECEMBER 2015/11TH AGRAHAYANA,
1937

Cr1.MC.No. 7557 of 2015

IN CC 247/2014 OF THE JUDICIAL FIRST CLASS MAGISTRATE
COURT-V, KOZHIKODE
CRIME NO. 576/2013 OF NALLALAM POLICE STATION , KOZHIKODE

PETITIONERS/ACCUSED 1 TO 3:

1. MOMIN SHAJAHAN, AGED 37 YEARS,
S/O.ABDUL RAHMAN, 'AYISHA MANZIL',
MULAKANDI HOUSE,
ELATHUR P.O, KOZHIKODE DISTRICT.
2. AYISHA, AGED 67 YEARS,
W/O.ABDUL RAHMAN, 'AYISHA MANZIL'
MULAKANDI HOUSE, ELATHUR P.O, KOZHIKODE DISTRICT.
3. KAMARUNISSA, AGED 45 YEARS,
D/O.ABDUL RAHMAN, 'AYISHA MANZIL'
MULAKANDI HOUSE, ELATHUR PO, KOZHIKODE DISTRICT.

BY ADVS.SRI.P.S.SREEDHARAN PILLAI
SRI.T.K.SANDEEP
SRI.ARJUN SREEDHAR
SRI.ARUN KRISHNA DHAN

RESPONDENTS/DEFACTO COMPLAINANT & STATE:

1. STATE OF KERALA
REPRESENTED BY ITS PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-31.
2. ANSHINA, D/O.ASEEZ,
AGED 28 YEARS, 'SELMAKKU HOUSE', FEROKE P.O,
KOZHIKODE-673631

R2 BY ADV. SRI.P.YADHU KUMAR
R1 BY PUBLIC PROSECUTOR SMT.SHEEBA M.T

THIS CRIMINAL MISC. CASE HAVING COME UP FOR
ADMISSION ON 02-12-2015, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING:

Cr1.MC.No. 7557 of 2015

APPENDIX

PETITIONERS' ANNEXURES:

ANNX.I - COPY OF THE FIR IN CR.NO.576/2013 REGISTERED BY
NALLALAM POLICE DATED 02.12.2013

ANNX.II - COPY OF THE FINAL REPORT/CHARGE SHEET
NO.67/2014 IN CRIME NO.576/2013 DATED 03.02.2014 OF
NALLALAM POLICE

ANNX.III - COPY OF THE AFFIDAVIT DATED 05.10.2015 BETWEEN
THE 2ND RESPONDENT AND 1ST PETITIONER.

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

ab

P.UBAID, J.

Crl.M.C No.7557 of 2015

Dated this the 2nd day of December, 2015

O R D E R

The petitioners herein are the three accused in C.C No.247/2014 of the Judicial First Class Magistrate Court V, Kozhikode. 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 Sections 420, 498A and 406 r/w 34 of the Indian Penal Code on the complaint of one Anshina who is the second 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 the further prosecution 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. The victim's affidavit shows that the whole dispute stands resolved forever, and that she has joined her husband in matrimony. The affidavit also shows that she is now happy with her husband (first petitioner). 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.247/2014 of the Judicial First Class Magistrate Court V, Kozhikode 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**

ab

//True Copy//