

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 22ND DAY OF DECEMBER 2015/1ST POUSHA, 1937

Crl.MC.No. 7575 of 2015

CC 1878/2015 of J.M.F.C.-I, ALAPPUZHA

CRIME NO.872/2015 OF ALAPPUZHA NORTH POLICE STATION,
ALAPPUZHA

PETITIONERS - ACCUSED 1 & 2 IN CR.NO.872/2015
OF ALAPPUZHA NORTH POLICE STATION :-

1. T.K. KOYA, AGED 57 YEARS,
S/O.KAREEM, SALMAN HOUSE, PATTATHIL,
MANGALAM, THUMPOLY P.O.,
ALAPPUZHA DISTRICT- 688 008.

2. SUNIL, AGED 28 YEARS,
S/O.T.K.KOYA, SALMAN HOUSE,
PATTATHIL, MANGALAM,
THUMPOLY P.O., ALAPPUZHA DISTRICT- 688 008.

BY ADVS.SRI.C.ANILKUMAR KALEESSERIL
SRI.C.Y.VINOD KUMAR

RESPONDENT(S)/STATE & DEFACTO COMPLAINANT :-

1. STATE OF KERALA,
(REP.BY THE SUB INSPECTOR OF POLICE,
ALAPPUZHA NORTH POLICE STATION - CR.NO.872/2015 OF
ALAPPUZHA NORTH POLICE STATION) REPRESENTED BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. SHAREENA HALEEM, AGED 37 YEARS,
W/O.HALEEM, PUTHENPURACKAL HOUSE,
MANGALAM, THUMPOLY P.O.,
ALAPPUZHA DISTRICT - 688 008.

R2 BY ADV. SRI.P.M.MANASH
R1 BY SMT.SHEEBA M.T., PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 22-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

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Cr1.MC.No. 7575 of 2015

APPENDIX

PETITIONER(S) ' ANNEXURES :-

ANNEXURE A1 : CERTIFIED COPY OF THE FINAL REPORT DATED
20.09.2015 IN CR.NO.872/2015 OF ALAPPUZHA
NORTH POLICE STATION PENDING IN
C.C.NO.1878/2015 ON THE FILE OF THE JUDICIAL
FIRST CLASS MAGISTRATE'S COURT-I, ALAPPUZHA.

ANNEXURE A2 : AFFIDAVIT DATED 20TH NOVEMBER, 2015 SWORN BY
THE 2ND RESPONDENT.

RESPONDENT(S) ' ANNEUXRES :- NIL

//TRUE COPY//

P.A. TO JUDGE

rkj

P.UBAID, J.

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Crl.M.C.No.7575 of 2015
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Dated this the 22nd day of December, 2015

ORDER

On a complaint regarding an instance of money lending, the Alappuzha North Police registered a crime against the petitioners as Crime No.872 of 2015, and the police submitted final report against the petitioners under Sections 354, 506(i) and 452 IPC, under Section 3 read with 13 and 17 of the Kerala Money Lenders Act, and Section 3 read with Section 9(1)(a) of the Prohibition of Charging of Exorbitant Interest Act. The petitioners seek orders quashing the said prosecution on the ground of amicable settlement made by the parties out of Court. The second respondent herein is the defacto complainant. She has filed affidavit to the effect that the whole dispute now stands settled. There is reason to believe that the respondent brought the said complaint alleging unauthorized money lending when the first petitioner herein

brought a prosecution against her under Section 138 of the Negotiable Instruments Act, on the basis of a cheque issued by the second respondent at the time of borrowal. This Court finds that this is only a case of single instance of borrowal, and the second respondent brought a complaint alleging so many things, including the offence under the Kerala Money Lenders Act, when the lender brought a prosecution against her under the NI Act. It is submitted that the said prosecution stands withdrawn by the first petitioner herein, as part of the settlement arrived at out of court. As already observed, and as settled by this Court, a single instance of money lending will not invite a prosecution under Kerala Money Lenders Act. For such a prosecution, something more is required. Anyway, the whole issue now stands resolved forever. The crime does not involve any other victim of offence. The second respondent had no other transaction with the first petitioner.

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, if the parties have come to terms amicably out of court, and continuance of prosecution will not serve any purpose. This is not a case

involving any public interest or public issue.

In the result, this petition is allowed. The prosecution against the petitioners herein in C.C.No.1878 of 2015 of the Judicial First Class Magistrate's Court-I, Alappuzha will stand quashed under Section 482 of the Code of Criminal Procedure.

Sd/-

**P.UBAID
JUDGE**

rkj

//TRUE COPY//

P.A. TO JUDGE