

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 10TH DAY OF DECEMBER 2015/19TH AGRAHAYANA, 1937

Cr1.MC.No. 7729 of 2015 ()

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CC 1231/2015 OF J.M.F.C.-II, KOLLAM

CRIME NO. 1468/2014 OF ERAVIPURAM POLICE STATION, KOLLAM

PETITIONER(S)/ACCUSED NO.1 TO 9:

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1. NIZAM, AGED 45 YEARS, S/O.SHAHUL HAMEED  
RESIDING IN A RENTED HOUSE AFSAL MANZIL  
VADAKKUMKARA KIZHAKKU CHERRY, KALLUMKUZHI JUNCTION  
THAZHUTHALA VILLAGE, UMayANALLOOR, KOLLAM 691589
  2. JUMAILATH, AGED 60 YEARS  
W/O.SHAHUL HAMEED, RESIDING IN A RENTED HOUSE  
AFSAL MANZIL, VADAKKUMKARA KIZHAKKU CHERRY  
KALLUMKUZHI JUNCTION, THAZHUTHALA VILLAGE  
UMAYANALLOOR, KOLLAM 691589
  3. SHAHUL HAMEED, AGED 70 YEARS  
S/O.IBRAHIM KUTTY, RESIDING IN A RENTED HOUSE  
AFSAL MANZIL, VADAKKUMKARA KIZHAKKU CHERRY  
KALLUMKUZHI JUNCTION, THAZHUTHALA VILLAGE  
UMAYANALLOOR, KOLLAM 691589
  4. SHEEJA, AGED 35 YEARS  
W/O.ABDUL VAHID, RESIDING AT KETTIDATHIL VEEDU  
VADAKKUMKARA KIZHAKKU CHERRY  
NEAR UMayANALLOOR MOSQUE, THAZHUTHALA VILLAGE  
UMAYANALLOOR, KOLLAM 691589
  5. SUNITHA, AGED 38 YEARS  
W/O.NIZAMUDEEN, ALI AKBAR VILLA, KAYYALAKKAL CHERRY  
ZAKIR HUSSAIN NAGAR-26, ERAVIPURAM VILLAGE  
KOLLAM 691011
  6. BEENA, AGED 35 YEARS  
W/O.SIDDIQUE, VILAYIL VEEDU, USHUS NAGAR-39  
AYATHAIL VADAKKEVILA VILLAGE, KOLLAM 691021
  7. VAHID, AGED 48 YEARS  
S/O.MUHAMMAD KUNJU, RESIDING AT KETTIDATHIL VEEDU  
VADAKKUMKARA KIZHAKKU CHERRY  
NEAR UMayANALLOOR MOSQUE, THAZHUTHALA VILLAGE  
UMAYANALLOOR, KOLLAM 691589

8. SIDDIQUE, AGED 40 YEARS  
S/O.MUHAMMED KUNJU, VILAIL VEEDU, USHUS NAGAR 39  
AYATHAIL VADAKKEVILA VILLAGE, KOLLAM 691021
9. SHAHINA, AGED 46 YEARS  
W/O.THAHA, THAHA MANZIL VADAKKUMKARA KIZHAKKU CHERRY  
KALLUMKUZHI JUNCTION, THAZHUTHALA VILLAGE  
UMAYANALLOOR, KOLLAM 691589

BY ADVS.SRI.K.SHAJ  
SRI.SAJJU.S

RESPONDENT(S)/STATE, DEFACTO COMPLAINANT, CW1:

1. STATE OF KERALA  
REPRESENTED BY THE PUBLIC PROSECUTOR  
HIGH COURT OF KERALA, ERNAKULAM 682031
2. RIJI, AGED 26 YEARS, D/O MAJIDA, BILAL HOUSE,  
MANAKKAD NAGAR - 33, MANAKKAD CHERRY, VADAKKEVILA VILLAGE,  
VADAKKEVILA P.O., KOLLAM - 691010.

R2 BY ADV. SRI.SERGI JOSEPH THOMAS  
R1 BY PUBLIC PROSECUTOR SMT.SHEEBA M.T.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON  
10-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 7729 of 2015 ()

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APPENDIX

PETITIONER(S) ' EXHIBITS

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ANNEXURE A1: COPY OF THE CHARGE SHEET IN CC.NO.1231/2015  
PENDING BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE  
COURT II, KOLLAM ARISING OUT OF CRIME NO.1468/2014  
OF ERAVIPURAM POLICE STATION

ANNEXURE A2: AFFIDAVIT SWORN BY THE SECOND RESPONDENT STATNG THE  
SETTLEMENT OF ALL THE DISPUTES

RESPONDENT(S) ' EXHIBITS NIL

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//TRUE COPY//

PA TO JUDGE

bka/-

**P. UBAID, J.**

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Crl. M.C. No. 7729 of 2015  
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Dated this the 10<sup>th</sup> day of December, 2015

**ORDER**

The petitioners herein are accused nos. 1 to 9 in C.C No.1231/2015 of the Judicial First Class Magistrate Court-II, Kollam. 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 403, 417 and 498(A) read with Section 34 of IPC, on the complaint of one Riji, who is the 2<sup>nd</sup> 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

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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. The victim's affidavit shows that the whole matrimonial dispute stands resolved for ever. It is submitted from both sides that the marriage stands dissolved by pronouncement of 'talaq' and the victim has received all her dues under the law. In such a situation, it is appropriate that the prosecution be quashed.

In the result, this petition is allowed. The

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prosecution against the petitioners herein in CC No.1231/2015 of the Judicial First Class Magistrate Court-II, Kollam 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**