

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. 7733 of 2015 ()

CC NO.2514/2015 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT,
KADAKKAL & CRIME NO.910/2014 OF KADAKKAL POLICE STATION, KOLLAM

PETITIONER(S) /ACCUSED:

1. GIGISH, AGED 37 YEARS, S/O. THANKACHAN,
PANDAVAM PUTHENPURAYIL VEEDU, AIMANAM
MURI, AIMANAM VILLAGE , KOTTAYAM
2. THANKACHAN, AGED 69 YEARS
S/O.NARAYANAN, PANDAVAM PUTHENPURAYIL VEEDU, AIMANAM
MURI, AIMANAM VILLAGE , KOTTAYAM
3. OMANA, AGED 66 YEARS
W/O. THANKACHAN, PANDAVAM PUTHENPURAYIL VEEDU, AIMANAM
MURI, AIMANAM VILLAGE, KOTTAYAM

BY ADVS.SRI.K.SIJU
SMT.S.SEETHA

RESPONDENT(S) /COMPLAINANT & STATE:

1. STATE OF KERALA
THROUGH THE SUB INSPECTOR OF POLICE
KADAKKAL POLICE STATION, REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM - 682031.
2. SIMI, AGED 32 YEARS
D/O. VENUGI, KAILASH VEEDU, CHEMPAMON
CHARIPARAMBU MURI, ITTIVA VILLAGE, KOTTARAKKARA TALUK
KOLLAM DISTRICT - 691506.

R1 BY PUBLIC PROSECUTOR SMT.SHEEBA M.T.
R2 BY ADV.SRI.A.MUHAMMED RAFFI

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. 7733 of 2015 ()

APPENDIX

PETITIONER(S) ' EXHIBITS

ANNEXURE 1 COPY OF PRIVATE COMPLAINT IN C.M.P NO 1935/2014 ON THE
FILE OF JFMC-II, KOTTARAKKARA

ANNEXURE 2 FIR IN CRIME NO 910/2014 OF KADAKKAL POLICE STATION

ANNEXURE 3 COPY OF FINAL REPORT IN CRIME NO 910/2014 OF KADAKKAL
POLICE STATION

ANNEXURE 4 COPY OF ORDER IN OP NO 614/2014 ON THE FILE OF FAMILY
COURT, KOTTARAKKARA AND THE AWARD OF THE LOK ADALATH

ANNEXURE 5 THE AFFIDAVIT SWORN BY THE 2ND RESPONDENT /DE-FACTO
COMPLAINANT REGARDING COMPROMISE DATED 5-12-2015

RESPONDENT(S) ' EXHIBITS: NIL

//TRUE COPY//

PA TO JUDGE

bka/-

P. UBAID, J.

Crl. M.C. No. 7733 of 2015

Dated this the 10th day of December, 2015

ORDER

The petitioners herein are accused in C.C No.2514/2015 of the Judicial First Class Magistrate Court, Kadakkal (CC No.965/2014 of Judicial First Class Magistrate Court-II, Kottarakkara). 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 498(A) & 34 of IPC on the complaint of one Simi, who is the 2nd 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

..2..

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. The victim's affidavit shows that the matrimonial dispute stands resolved for ever. It is submitted from both sides that the parties have parted ways in terms of settlement and have also decided to file a joint application for divorce. The claims of the victim also stand settled as per Annexure A4 award passed by the Lok Adalat. In such a situation, it is

..3..

appropriate that the prosecution be quashed.

In the result, this petition is allowed. The prosecution against the petitioners herein in C.C No.2514/2015 of the Judicial First Class Magistrate Court, Kadakkal 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

bka/11.12.2015