

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 14TH DAY OF DECEMBER 2015/23RD AGRAHAYANA,
1937

Cr1.MC.No. 7790 of 2015

IN CP 8/2015 OF THE JUDICIAL FIRST CLASS MAGISTRATE
COURT I, PERAMBRA
CRIME NO.249/2014 OF KOORANCHUNDU POLICE STATION ,
KOZHIKODE

PETITIONER:

ABDUL MAJEED @ MAJEED, AGED 43 YEARS,
S/O.IBRAHIM, NADUVILEKANDI HOUSE, KOORACHUNDU,
KOZHIKODE DISTRICT

BY ADVS.SRI.J.R.PREM NAVAZ
SRI.P.T.SHEEJISH

RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM
2. DIJINA, AGED 29 YEARS,
W/O.NIZAR, RESIDING AT KARIMBAKANDI HOUSE,
CHALODE KOORACHUNDU, KOZHIKODE DISTRICT
3. NIZAR @ RIZAL, AGED 32 YEARS,
S/O.MUHAMMADALI, KARIMBAKANDY HOUSE, CHALODE,
KOORACHUNDU, KOZHIKODE DISTRICT

R2,3 BY ADV. SRI.AJOY VENU
R1 BY PUBLIC PROSECUTOR SRI.JUSTIN JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR
ADMISSION ON 14-12-2015, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING:

Cr1.MC.No. 7790 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A:THE CERTIFIED COPY OF THE FINAL REPORT/CHARGE SHEET IN CRIME NO.249/2014 OF KOORACHUNDU POLICE STATION, KOZHIKODE DISTRICT

ANNEXURE B:THE AFFIDAVIT SOLEMNLY AFFIRMED BY THE SECOND RESPONDENT/DEFACTO COMPLAINANT DATED 08.10.2015

ANNEXURE C:THE AFFIDAVIT SOLMNLy AFFIRMED BY THE THIRD RESPONDENT/DEFACTO COMPLAINANT DATED 08.10.2015

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.7790 of 2015

Dated this the 14th day of December, 2015

O R D E R

The petitioner herein is the sole accused in C.P No.8/2015 of the Judicial First Class Magistrate Court I, Perambra. He seeks orders quashing the prosecution on the ground of amicable settlement of the whole dispute between him and the de facto complainant. Crime in this case was registered under Sections 452, 354, 308, 294(b) and 506 of the Indian Penal Code on the complaint of one Dijina 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. The other person who sustained injuries in the alleged incident is the third respondent in this proceeding. He has also filed affidavit to the effect that he has settled the whole dispute with the accused and he has no grievance or complaint now.

3. 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 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. On a perusal of the materials including the final report, I find that Section 308 IPC was incorporated in the proceeding by the police on the basis of a purely hypothetical statement. Anyway, the whole dispute stands resolved forever, and the counter case also stands settled and quashed. 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.

In the result, this petition is allowed. The prosecution against the petitioner herein in C.P No.8/2015 of the Judicial First Class Magistrate Court I, Perambra will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, the petitioner will stand released from prosecution, and the bail bond, if any, executed by him will stand discharged.

**Sd/-
P.UBAID
JUDGE**

//True Copy//

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P.A to Judge