

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. 7791 of 2015

IN SC 758/2015 OF THE 3RD ADDITIONAL SESSIONS COURT,
KOZHIKODE-III
CRIME NO. 252/2014 OF KOORANCHUNDU POLICE STATION
KOZHIKODE

PETITIONER:

NIZAR @ RIZAL, AGED 32 YEARS,
S/O.MUHAMMADALI, KARIMBAKANDY HOUSE, CHALODE,
KOORACHUNDU, KOZHIKODE DISTRICT.

BY ADV. SRI.AJOY VENU

RESPONDENTS :

1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM
2. ABDUL MAJEED @ MAJEED, AGED 43 YEARS,
S/O.IBRAHIM, NADUVILEKANDI HOUSE, KOORACHUNDU,
KOZHIKODE DISTRICT
3. SHEREENA, AGED 34 YEARS,
W/O.MUJEEB, RESIDING AT PALAKANDI HOUSE,
CHALODE, KOORACHUNDU.

R2,3 BY ADV. SRI.J.R.PREM NAVAZ
R2,R3 BY ADV. SRI.P.T.SHEEJISH
R1 BY PUBLIC PROSECUTOR SHEEBA M.T

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. 7791 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A: THE CERTIFIED COPY OF THE FINAL REPORT/CHARGE SHEET IN CRIME NO.252/2014 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.7791 of 2015

Dated this the 14th day of December, 2015

O R D E R

The petitioner herein is the accused in S.C No.758/2015 of the 3rd Additional Sessions Court, Kozhikode. 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 323, 452, 308, 294(b) and 506 of the Indian Penal Code on the complaint of one Shereena who is the 3rd 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 victim of offence is the 2nd 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 S.C No.758/2015 of the 3rd Additional Sessions Court, Kozhikode 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//
P.A to Judge

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