

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 15TH DAY OF DECEMBER 2015/24TH AGRAHAYANA, 1937

Cr1.MC.No. 7818 of 2015

CC 1043/2014 OF J.M.F.C.-I, KASARAGOD

CRIME NO. 649/2013 OF VIDYA NAGAR POLICE STATION, KASARAGOD

PETITIONER/ACCUSED :-

1. IRSHAD C.K., AGED 24 YEARS,
S/O. MOHAMMED, RESIDING AT CHALNARA HOUSE,
MITHAL BAZAR, EDANIR P.O., PADI VILLAGE,
KASARAGOD TALUK AND DISTRICT.
2. RASHID C.A., AGED 27 YEARS,
S/O. ABDUL KHADER C.M., RESIDING AT MUBEENA MANZIL,
UDUPPU MOOLA, EDANIR P.O., PADI VILLAGE,
KASARAGOD TALUK AND DISTRICT.
3. MUHAMMED NAMSHEED, AGED 21 YEARS,
S/O NOUSHAD, RESIDING AT AL-SALAM QUARTERS,
MITHAL BAZAR, EDANIR (P.O.), PADI VILLAGE,
KASARAGOD TALUK AND DISTRICT.

BY ADV. SRI.JAWAHAR JOSE

RESPONDENTS/STATE, DEFACTO-COMPLAINANT AND INJURED :-

1. THE STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, PIN-682031.
2. AHAMMED SHAFEEQ K., AGED 23 YEARS,
S/O. ABOOBACKER, RESIDING AT KATTU KOCHI HOUSE,
EDANIR (P.O.), PADI VILLAGE,
KASARAGOD TALUK AND DISTRICT, PIN-671121.
3. FATHIMA A., AGED 19 YEARS,
D/O. ABOOBACKER, RESIDING AT KATTU KOCHI HOUSE,
EDANIR (P.O.), PADI VILLAGE,
KASARAGOD TALUK AND DISTRICT, PIN-671121.

R2 & R3 BY ADV. SRI.V.VINAY MENON

R1 BY SRI.JUSTIN JACOB, PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 15-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

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APPENDIX

PETITIONER(S) ' ANNEXURES :-

- ANNEXURE I :- CERTIFIED COPY OF THE FIR TOGETHER WITH THE
 FIRST INFORMATION STATEMENT OF THE DEFACTO
 COMPLAINT.
- ANNEXURE II :- CERTIFIED COPY OF THE CHARGE SHEET.
- ANNEXURE III :- CERTIFIED COPY OF MEMO OF EVIDENCE.
- ANNEXURE IV :- CERTIFIED COPY OF THE WOUND CERTIFICATE
 (TWO IN NUMBER) .
- ANNEXURE V :- COPY OF THE AFFIDAVITS SWEARED BY RESPONDENTS
 2 AND 3 (TWO IN NUMBER) .

RESPONDENT(S) ' ANNEXURES :- NIL

//TRUE COPY//

P.A. TO JUDGE

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P.UBAID, J.

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Crl.M.C.No.7818 of 2015
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Dated this the 15th day of December, 2015

ORDER

The petitioners herein are the three accused in C.C.No.1043 of 2014 of the Judicial First Class Magistrate Court-I, Kasaragod. 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 341, 323, 324 and 354 read with Section 34 of the Indian Penal Code on the complaint of one Ahammed Shafeeq K., who is the 2nd respondent in this proceeding brought under Section 482 of the Code of Criminal Procedure. He has filed affidavit to the effect that he has settled the whole dispute with the accused, and he has no grievance or complaint now. The other person who sustained injuries in the alleged incident is the 3rd respondent in this proceeding. She has also 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 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, and I am satisfied that the parties are now on quite cordial terms. 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.

3. On a perusal of the materials including the complaint, I find that this is only a case of assault. It is well settled that a mere assault on a woman by itself will not

come under Section 354 IPC. Anyway, the parties have come to terms amicably, and everything stands resolved.

In the result, this petition is allowed. The prosecution against the petitioners herein in C.C.No.1043 of 2014 of the Judicial First Class Magistrate Court-I, Kasaragod 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**

rkj

//TRUE COPY//

P.A. TO JUDGE