

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 18TH DAY OF DECEMBER 2015/27TH AGRAHAYANA,
1937

Cr1.MC.No. 7896 of 2015

IN SC 1336/2014 of I ADDL.SESIONS COURT,KOLLAM

CRIME NO.3/2012 OF KUNDARA POLICE STATION, KOLLAM

PETITIONER/ACCUSED:

SUNIL KUMAR, AGED 36 YEARS,
S/O.NANU, ANIL BHAVAN,
SOUTH SIDE OF VALIYAVILA JN
NEDUMPANA VILLAGE, KOLLAM.

BY ADV. SRI.M.KIRANLAL

RESPONDENTS/DEFACTO COMPLAINANT:

1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM
2. PRASOBHA , AGED 36 YEARS,
D/O.KOMALAVALLY, CHARUVILA PUTHEN VEEDU,
NEAR MUNDAKKAL COLONY, PUNUKKANNOOR,
ELAMPALLOOR,
KOLLAM - 691 010

R1 BY PUBLIC PROSECUTOR SRI.JUSTIN JACOB
R2 BY SRI.V.PREEJO PAULY

THIS CRIMINAL MISC. CASE HAVING COME UP FOR
ADMISSION ON 18-12-2015, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING:

Cr1.MC.No. 7896 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A1: CERTIFIED COPY OF THE FIR 3/2012 OF KUNDARA
POLICE STATION

ANNEXURE A2: CERTIFIED COPY OF THE FINAL REPORT FILED BY
THE KUNDARA POLICE

ANNEXURE A3: AFFIDAVIT FILED BY THE 2ND RESPONDENT

ANNEXURE A4: COPY OF THE MARRIAGE CERTIFICATE DATED 28TH
DAY OF OCTOBER 2014

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No. 7896 of 2015

Dated this the 18th day of December, 2015

O R D E R

The petitioner herein is the sole accused in S.C No.1336/2014 of the Court of Session, Kollam, involving the offence under Section 376 of the Indian Penal Code. Now the accused and the victim have come to terms, and the accused has married the victim. The marriage stands registered under the Special Marriage Act. In such a situation, the accused seeks orders quashing the prosecution under Section 482 of the Code of Criminal Procedure.

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 the prosecution will not serve any purpose. Here is a case where the accused has married the victim, and they are very happy in matrimony. The defacto complainant is the 2nd respondent herein. She has filed affidavit to the effect that the whole dispute stands resolved forever, and that she is now very happy with the petitioner herein. Even otherwise, I find that the prosecution is liable to be quashed.

3. On a perusal of the materials, I find that this is not infact a case of rape. The final report itself shows that the petitioner and the victim had a long standing unholy relationship, and that everything that transpired between them was purely consensual. It appears that when the relationship ruptured, the lady thought of making a complaint of rape. The police also quite mechanically proceeded with investigation and submitted final report. Anyway, the dispute now stands settled forever. The victim has become the wife of the accused. If the prosecution in this case continues in such a situation, it will cause harm and hardship to them, and it may even defile their happy matrimony. In such a situation, it is appropriate that the prosecution be quashed.

In the result, this petition is allowed. The prosecution against the petitioner herein in S.C No.1336/2014 of the Court of Session, Kollam, 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**

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//True Copy//