

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 22ND DAY OF DECEMBER 2015/1ST POUSHA, 1937

Crl.MC.No. 7968 of 2015 ()

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SC 112/2015 of COURT OF SESSION, ERNAKULAM
CRIME NO. 2421/2013 OF PALLURUTHY POLICE STATION , ERNAKULAM DISTRICT
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PETITIONER/ACCUSED:

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MARY THOMAS @ KOCHUMARY, AGED 60 YEARS
9/274, VALIYATHARA VEEDU, NEAR N.K.N. HOSPITAL
KUMBALANGHI P.O., COCHIN-682 007, ERNAKULAM DISTRICT.**

BY ADV. SRI.C.Y.VINOD KUMAR

RESPONDENTS/STATE,DEFACTO COMPLAINANT & CW2:

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- 1. STATE OF KERALA
(THROUGH THE ASSISTANT COMMISSIONER OF POLICE
MATTANCHERY-CRIME NO.2421/2013 OF PALLURUTHY
POLICE STATION) REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM, PIN-682 031.**
 - 2. PADMAKSHY, AGED 70 YEARS
W/O.SUPRAN, CHERIYATHARA VEETIL
WEST OF N.K.N.HOSPITAL, KUMBALANGHI VILLAGE
KUMBALANGHI KARA, COCHIN-682 007, ERNAKULAM DISTRICT.**
 - 3. NITHIN, AGED 24 YEARS, S/O.PURUSHOTHAMAN
VAZHATHARA VEETIL, ARATTUVAZHY
NJARAKKAL VILLAGE, RESIDING AT THE HOUSE
OF VALLAYIL THANKAPPAN, WEST OF THEKKE GURU MADAM
KUMBALANGHI VILLAGE, KUMBALANGHI KARA
COCHIN-682 007, ERNAKULAM DISTRICT.**

**R2,R3 BY ADV. SRI.P.S.PRASOBH
R1 BY PUBLIC PROSECUTOR SMT. SHEEBA M.T.**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 22-12-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 7968 of 2015 ()

APPENDIX

PETITIONER'S EXHIBITS

**ANNEXURE-A1. THE COPY OF THE FINAL REPORT IN CRIME NO.2421/2013 OF
PALLURUTHY POLICE STATION, IN SC NO.112/2015 ON THE FILES OF
THE DISTRICT AND SESSIONS COURT, ERNAKULAM.**

**ANNEXURE-A2. THE AFFIDAVIT SWORN BY THE DEFACTO COMPLAINANT DATED
3/12/2015.**

**ANNEXURE-A3. THE AFFIDAVIT SWORN BY THE CHARGE WITNESS NO.2 (CW2)
DATED 03.12.2015.**

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY //

P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.7968 of 2015

Dated this the 22nd day of December, 2015

O R D E R

The petitioner herein is the sole accused in S.C.No.112/2015 of the Court of Session, Ernakulam. She seeks orders quashing the said prosecution involving the offences under Sections 323 and 294(b) IPC and Section 3(1)(x) of the The Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'the SC/ST Act') on the ground of amicable settlement out of court. The 2nd respondent herein is the defacto complainant, and the 3rd respondent is her grandson. The 2nd respondent is a tenant under the petitioner herein. The alleged incident happened in connection with some dispute between the landlady and the tenant. It is alleged that the complainant was abused by the petitioner herein. The respondents have filed affidavit to the effect that the whole dispute stands settled forever amicably out of court, and that they have no grievance or complaint now. In so many decisions, the Honourable Supreme Court has held that even in cases involving non-compoundable offences, the High

Court can quash the prosecution, if the parties have come to terms amicably out of court, and if continuance of the proceeding will not serve any purpose. Here, on a perusal of the materials, I find nothing for a prosecution under Section 294 IPC. The offence under Section 323 IPC is well compoundable under the law. As regards the offences alleged under Section 3(1)(x) of the SC/ST Act, I find that the prosecution does not have the very necessary essentials constituting the said offence. It is not known whether the alleged offence was committed within public view. The materials do not show that the complainant was abused by the petitioner with the object of abusing her as a member of the Scheduled Caste. Some words of abuse or humiliation will not by itself attract a prosecution under Section 3 (1)(x) of the SC/ST Act. Any way, the parties have come to terms amicably, and the whole dispute between them stands resolved forever. In such a situation, it is appropriate that the prosecution be quashed. Continuance of the prosecution will not serve any purpose, other than wasting the precious time of the court.

In the result, this petition is allowed. The prosecution against the petitioner in S.C.No.112/2015 of the Court of Session, Ernakulam will stand quashed under Section 482 Cr.P.C.

Sd/-

P. UBAID, JUDGE

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// True Copy //

P.A. to Judge