

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. 7974 of 2015 ()

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CC 1095/2015 of JUDICIAL FIRST CLASS MAGISTRATE COURT, NADAPURAM
CRIME NO. 421/2015 OF KUTTIYADI POLICE STATION, KOZHIKODE DISTRICT
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PETITIONERS/ACCUSED 1 TO 3:

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- 1. RAFEEQUE, AGED 33 YEARS
S/O.KUNHALI, RESIDING AT PAIKATTU HOUSE, VELAM P.O.
SANTHI NAGAR, KOZHIKODE DISTRICT.**
 - 2. AYISHA, AGED 68 YEARS
W/O.KUNHALI, RESIDING AT PAIKATTU HOUSE, VELAM P.O.
SHANTHI NAGAR, VADAKARA TALUK, KOZHIKODE DISTRICT.**
 - 3. SUBAIDA, AGED 34 YEARS
W/O.ABDUL AZEEZ, RESIDING AT PAIKATT HOUSE, VELAM P.O.
SHANTHI NAGAR, KOZHIKODE DISTRICT.**

BY ADV. SRI.T.MADHU

RESPONDENTS/STATE:

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- 1. THE STATE OF KERALA
REPRESENTED BY THE STATION HOUSE OFFICER
KUTTIYADI POLICE STATION, KOZHIKODE DISTRICT
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM, PIN-682 031.**
 - 2. MUJEERA, AGED 24 YEARS
D/O.AHAMAD, RESIDING AT PAIKATT HOUSE, VELAM
SHANTHI NAGAR, NOW RESIDING AT PONMENI AMSOM
PARAMBIL DESOM, VILLIAPPILLY, VADAKARA TALUK
KOZHIKODE DISTRICT-673012.**
- R2 BY ADV. SMT.G.SANGEETHA
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:**

APPENDIX

PETITIONERS' EXHIBITS

ANNEXURE-A1. THE TRUE CERTIFIED COPY OF THE FIR IN CRIME NO.421/2015 OF KUTTIYADI POLICE STATION, KOZHIKODE DISTRICT.

ANNEXURE-A2. THE TRUE CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.421/2015 OF KUTTIYADI POLICE STATION KOZHIKODE DISTRICT.

ANNEXURE-A3. THE TRUE COPY OF THE AGREEMENT DATED 19/10/2015 ENTERED INTO BETWEEN THE 1ST PETITIONER AND THE 2ND RESPONDENT

ANNEXURE-A4. THE AFFIDAVIT DATED 18/12/2015 SWORN IN BY THE 2ND RESPONDENT

ANNEXURE-A5. THE TRUE CERTIFIED COPY OF THE ORDER DATED 19/10/2015 IN MC NO.168/2015 ON THE FILE OF THE LEARNED JUDICIAL FIRST CLASS MAGISTRATE COURT, NADAPURAM.

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY //

P.A.TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.7974 of 2015

Dated this the 22nd day of December, 2015

O R D E R

The petitioners herein are the three accused in C.C.No.1095/2015 of the Judicial First Class Magistrate Court, Nadapuram. 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 Section 498-A IPC, on the complaint of one Mujeera, who is the 2nd 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. Her affidavit shows that the whole matrimonial dispute stands resolved forever. It is submitted that the marriage stands dissolved by pronouncement of Thalaq, and that the victim has received all her dues from the 1st petitioner, as a divorced Muslim woman. In such a situation, it is appropriate that the prosecution be quashed.

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. 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 petitioners herein in C.C.No.1095/2015 of the Judicial First Class Magistrate Court, Nadapuram 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

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// True Copy //

P.A. to Judge