

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 4TH DAY OF SEPTEMBER 2015/13RD BHADRA, 1937

Crl.MC.No. 7463 of 2014 ()

**-----
CC 542/2013 of JUDICIAL FIRST CLASS MAGISTRATE COURT-III, PUNALUR
CRIME NO. 929/2010 OF KUNNICODE POLICE STATION, KOLLAM DISTRICT
=====**

PETITIONER/ACCUSED:

**-----
DILEEP, S/O.DIVAKARAN NAIR, GANGA NILAYAM, PANTHAPLAVU MURI
PATTAZHI VILLAGE, PATHANAPURAM TALUK, KOLLAM DISTRICT.**

BY ADV. SRI.B.KRISHNA MANI

RESPONDENTS/DEFACTO COMPLAINANT/STATE:

**-----
1. AMIBILY, D/O.GOMATHY AMMA, KUMPAZHA VEEDU, PANTHAPLAVU MURI
PATTAZHI VILLAGE, PATHANAPURAM TALUK, KOLLAM DISTRICT-691305.**

**2. THE SUB INSPECTOR OF POLICE
KUNNIKODE POLICE STATION, KUNNIKODE, KOLLAM DISTRICT-691286.**

**3. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.**

**R1 BY ADV. SRI.K.SUBASH CHANDRA BOSE
R2&R3 BY PUBLIC PROSECUTOR SMT. REMA R.**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 04-09-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

**ANNEXURE 1 : TRUE COPY OF THE FIR DT.6-9-10 IN CR.929/10 BEFORE THE
KUNNIKODE POLICE STATION.**

**ANNEXURE 2 : TRUE COPY OF THE CHARGE SHEET DT.10-12-2010 IN CC 542/13
BEFORE THE JFCM III PUNALUR.**

ANNEXURE 3 : TRUE COPY OF THE AFFIDAVIT DT.6-11-2014.

RESPONDENTS' EXHIBITS

NIL

TRUE COPY

P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C. No.7463 of 2014

Dated this the 4th day of September, 2015

O R D E R

The petitioner herein is the accused in C.C.No.542/2013 of the Judicial First Class Magistrate Court-III, Punalur. 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 452, 294(b), 354, 323 506(i) and 427 IPC on the complaint of one Ambily, who is the 1st 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. On a perusal of the First Information Statement, I find that this is in fact a case of assault and use of criminal force on a woman. A case of outrage of modesty under Section 354 IPC cannot be easily found in the complaint. Mere assault or use of criminal force on a woman will not constitute the offence under Section 354 IPC. It appears that the alleged incident happened in

connection with some money transaction between the victim and the accused. Any way, the whole dispute stands resolved forever.

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 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.

In the result, this petition is allowed. The prosecution against the petitioner herein in C.C.No.542/2013 of the Judicial First Class Magistrate Court-III, Punalur 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

sd