

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 6TH DAY OF OCTOBER 2015/14TH ASWINA, 1937

Cr1.Rev.Pet.No. 1203 of 2015

AGAINST THE JUDGMENT IN C.C 305/2007 OF THE JUDICIAL FIRST
CLASS MAGISTRATE COURT II, ATTINGAL DATED 16-10-2012

AGAINST THE JUDGMENT IN CRL.A NO.508/2012 of II ADDL.SESIONS
COURT, THIRUVANANTHAPURAM DATED 19-08-2015

REVISION PETITIONER/APPELLANT/RESPONDENT:

MAHESH,
S/O.VIJAYAN, PUNNAVILA VEEDU, GURUKULAM WARD,
PANGAPPARA, THIRUVANANTHAPURAM.

BY ADVS.SRI.SUMAN CHAKRAVARTHY
SMT.K.R.RIJA

RESPONDENT/RESPONDENT/STATE:

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

*ADDL. 2ND RESPONDENT

2. VIGNESH V.S, AGED 24 YEARS,
S/O.SURENDRAN, "KAILAS"
PUNNAVILA, CHEMPAZHANTHY,
THIRUVANANTHAPURAM

*ADDL. 2ND RESPONDENT IS IMPEADED AS PER ORDER DATED
29.9.2015 IN CRL.M.A NO.5360/2015.

R1 BY PUBLIC PROSECUTOR SMT.SHEEBA M.T
R2 BY ADV. SRI.K.B.PRADEEP

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY
HEARD ON 06-10-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A: ORIGINAL AFFIDAVIT EXECUTED BY PW1 DATED
23.9.2015.

RESPONDENT'S ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.R.P No.1203 of 2015

Dated this the 6th day of October, 2015

O R D E R

The revision petitioner herein challenges the conviction and sentence against him under Section 377 r/w 511 of the Indian Penal Code. On trial, the learned Judicial First Class Magistrate Court II, Attingal found him guilty, and he was sentenced to undergo simple imprisonment for one year and also to pay a fine of ₹1,000/-. The revision petitioner lost his case in appeal before the learned II Additional Sessions Judge, Thiruvananthapuram. Crl.A No.508/2012 brought by him was dismissed. Pending this revision, the revision petitioner and the victim of offence came to terms amicably out of court. The victim was aged 15 years as on the date of the alleged incident, and now he is aged 24 years. He has filed affidavit to the effect that the whole dispute stands settled out of court amicably and that he has no grievance or complaint now. As directed by the court, the victim appeared in Court in person and explained the circumstances of settlement. He submitted that he is now aged 24 years, and he has a wife with him now. Being a married

person, he thought it fit and appropriate to abandon the prosecution especially in view of the present physical condition of the accused, that due to an operation he has lost his speech capacity in part. Thus on humanitarian consideration, the victim of offence voluntarily came to settlement, and he 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; be it at the crime stage or at the trial stage or even at the appellate or revisional stage; if the parties have really settled the whole dispute, or if continuance of the prosecution in such a situation of settlement will cause harm and hardship to the parties. This is a case which does not involve any public interest or public issue. In the special circumstances of the accused, the victim thought of an amicable settlement on the intervention of persons acceptable to both sides. I am well satisfied of the genuineness of the voluntary settlement made by the parties. I find that continuance of prosecution, or the conviction and sentence in such a circumstances of amicable settlement, especially when the accused has some physical disabilities, will cause much

hardship to him. In such a situation, it is appropriate that the prosecution, which is now settled in revision, be quashed.

In the result, this petition is allowed. The whole prosecution including the conviction and sentence against the appellant herein in C.C No.305/2007 of the Judicial First Class Magistrate Court II, Attingal, confirmed in appeal by the appellate court, will stand set aside under Section 482 of the Code of Criminal Procedure. The revision petitioner will, accordingly, stand released from prosecution, and the bail bond, if any, executed by him will stand discharged.

**P.UBAID
JUDGE**

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