

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

THURSDAY, THE 25TH FEBRUARY 2010 / 6TH PHALGUNA 1931

Crl.MC.No. 537 of 2010()

CR.NO.583/2009 OF NALLALAM POLICE STATION.

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PETITIONER/ACCUSED:

- 1. RIYAS, AGED 26 YEARS,
S/O.LATE KASIM, THEYYAMPADIKANDI HOUSE,
MAKKADA P.O., KOTTOOPADAM,
KOZHIKODE DISTRICT.**
- 2. KHADEEJA, AGED 40 YEARS,
W/O.LATE KASIM, THEYYAMPADIKANDI HOUSE,
MAKKADA P.O., KOTTOOPADAM,
KOZHIKODE DISTRICT.**
- 3. RAJEENA. N.P., AGED 32 YEARS,
D/O.LATE KASIM, THEYYAMPADIKANDI HOUSE,
MAKKADA P.O., KOTTOOPADAM,
KOZHIKODE DISTRICT.**

**BY ADV. MR.C.V.MANUVILSAN,
MR.P.G. SURESH,
SMT.VIDYA MANUVILASAN.**

RESPONDENT(S):

- 1. STATE OF KERALA, REPRESENTED BY
THE SI OF POLICE, NALLALAM POLICE STATION
THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. JASHEELA AGED 20 YEARS,
D/O.MAMMADKOYA, JESSY MANZIL,
NEAR FISHERIES OFFICE, KONNADU,
PO WEST HILL, KOZHIKODE.**

**R1 BY PUBLIC PROSECUTOR MR.K.S. SIVAKUMAR.
R2 BY ADV. MR.M.R.HARISH & SRI.M.R.VIPIN.**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 25/02/2010, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

M.SASIDHARAN NAMBIAR, J.

CRL.M.C.NO.537 OF 2010

Dated 25th February 2010

ORDER

Petitioners are the accused in crime No.583/2009 of Nallalam police station registered under Annexure-A2 FIR for the offences under Section 498 A and 406 read with Section 34 of Indian Penal Code, based on Annexure-A1 complaint filed by the second respondent before Judicial First Class Magistrate-V, Kozhikode and sent for investigation under Section 156(3) of Code of Criminal Procedure. Second respondent is the wife of the first petitioner. Petition is filed under Section 482 of Code of Criminal Procedure to quash Annexure-A2 FIR and the proceedings pending, contending that entire matrimonial

disputes were settled, evidenced by Annexure-A3 agreement and in view of settlement, it is not in the interest of justice to continue the prosecution. Second respondent appeared through a counsel and filed an affidavit stating that entire matrimonial disputes were settled by the intervention of mediators and in view of the settlement, she is not willing to prosecute the petitioners further and she has no objection for quashing the proceedings.

2. Learned counsel appearing for the petitioners, second respondent and learned Public Prosecutor were heard. Learned Public Prosecutor on instructions submitted that statement of the second respondent, recorded later shows that there was settlement.

3. When offences alleged against petitioners are matrimonial offences and the

affidavit of the second respondent establishes that matrimonial disputes were settled amicably, as held by the Apex court in **B.S.Joshi and others v. State of Haryana and another (2003(4) SCC 675)**, it is not in the interest of justice to continue the prosecution standing on technicalities, when ultimately consequent to the settlement there is no likelihood of a successful prosecution.

Petition is allowed. Crime No.583/2009 of Nallalam police station as against petitioners is quashed.

M.SASIDHARAN NAMBIAR,
JUDGE.

uj.