

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

MONDAY, THE 26TH DAY OF AUGUST 2019 / 4TH BHADRA, 1941

Cr1.MC.No.5636 OF 2019(D)

CRIME NO.399/2018 OF Malappuram Police Station , Malappuram

PETITIONERS/ACCUSED:

HAFSAL RAHMAN N.K  
AGED 36 YEARS  
S/O.KUNJIMHAMMED, NAATUKULANGAL HOUSE, PONMALA  
POST, MALAPPURAM DISTRICT-676528  
BY ADV. SRI.E.C.AHAMED FAZIL

RESPONDENTS/STATE - COMPLAINANT & VICTIMS:

- 1 THE STATE OF KERALA  
REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT  
OF KERALA, ERNAKULAM-682031
- 2 THE SUB INSPECTOR OF POLICE  
MALAPPURAM POLICE STATION, KOZHIKODE DISTRICT-676505
- 3 WAFI (MINOR)  
D/O.ABDULLA, THONDIKKAL HOUSE, PARAMMAL, ALAATTA,  
KODU POST, MALAPPURAM -676504 REPRESENTED BY 4TH  
RESPONDENT MOTHER SHAHINA PA, AGED 38,  
W/O.ABDULLA, THONDIKKAL HOUSE, PARAMMAL,  
ALAPPATTA, KODUR POST, MALAPPURAM -676504
- 4 SHAHINAS.P.A  
AGED 38 YEARS  
W/O.ABDULLA, THONDIKKAL HOUSE, PARAMMAL,  
ALAPATTA, KODUR POST, MALAPPURAM-676504  
R3-4 BY ADV. NIYAS

MOHAMMED OTHER PRESENT:

SMT.PRIYA SHANAVAS, PUBLIC PROSECUTOR FOR R1 AND  
R2, SRI.NIYAS MOHAMMED FOR R3 AND R4

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON  
26.08.2019, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**ALEXANDER THOMAS, J.**

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**Crl.M.C. No. 5636 of 2019**  
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**Dated this the 26<sup>th</sup> day of August, 2019**

**ORDER**

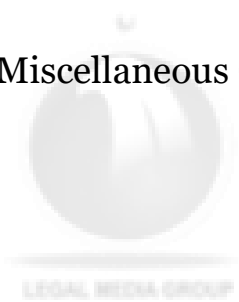
The petitioner herein is the sole accused in the impugned Annexure-A1 FIR in Crime No.399/2018 of Malappuram Police Station, Malappuram District registered for offences punishable under Secs.9(f) and 10 of the Protection of Children from Sexual Offences (POCSO) Act, 2012. It is stated that now the entire disputes between the petitioner and respondents have been settled amicably and that the 4<sup>th</sup> respondent has sworn to Anx.A2 affidavit before this Court, wherein it is stated that she has settled the entire disputes with the petitioner and that she has no objection for quashment of the impugned criminal proceedings pending against the petitioner. It is in the light of these aspects that the petitioner has preferred the instant Crl.M.C. with the prayer to quash the impugned criminal proceedings against him. The learned Prosecutor was asked to get instructions in the matter and it is now submitted by the learned Prosecutor that the investigating officer has conducted an enquiry and it is found out that the settlement arrived at between the petitioner and the complainant appears to be genuine.

2. The allegations in the instant crime is that the petitioner/accused who is the teacher of the 3<sup>rd</sup> respondent victim, who is his student to his room and touched her cheeks and kissed on her forehead etc.

3. In a catena of decisions, the Apex Court has held that, in appropriate cases involving even non-compoundable offences, the High Court can quash prosecution by exercise of the powers under Sec.482 of the Cr.P.C., if the parties have really settled the whole dispute or if the continuance of the prosecution will not serve any purpose. Here, this Court finds a real case of settlement between the parties and it is also found that continuance of the prosecution in such a situation will not serve any purpose other than wasting the precious time of the court, when the case ultimately comes before the court. On a perusal of the petition and on a close scrutiny of the investigation materials on record and the affidavit of settlement and taking into account the attendant facts and circumstances of this case, this Court is of the considered opinion that the legal principles laid down by the Apex Court in the cases as in ***Gian Singh v. State of Punjab*** reported in 2013 (1) SCC (Cri) 160 = (2012) 10 SCC 303 and ***Narinder Singh and others v. State of Punjab and anr.*** reported in (2014) 6 SCC 466, more particularly paragraph 29 thereof, could be applied in this case to consider the prayer for quashment.

4. Accordingly, it is ordered in the interest of justice that the impugned Annexure-A1 FIR in Crime No.399/2018 of Malappuram Police Station, Malappuram District and all further proceedings arising therefrom pending against accused will stand quashed. The petitioner will produce certified copies of this order to the Investigating Officer concerned and the competent court below concerned. Office of Advocate General will forward copy of this order to the Investigating Officer concerned, for necessary information.

With these observations and directions, the above Criminal Miscellaneous Case stands finally disposed of.



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Sd/-

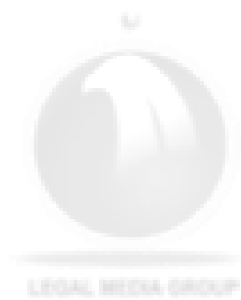
**ALEXANDER THOMAS,  
JUDGE**

SKS

## **APPENDIX**

### **PETITIONER'S/S EXHIBITS:**

<b>ANNEXURE A1</b>	<b>CERTIFIED COPY OF FIRST INFORMATION REPORT IN CRIME NO.399/2018 OF MALAPPURAM POLICE STATION</b>
<b>ANNEXURE A2</b>	<b>AFFIDAVIT SWORN IN BY 4TH RESPONDENT</b>



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