

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

TUESDAY, THE 28TH DAY OF APRIL 2015/8TH VAISAKHA, 1937

Crl.MC.No. 973 of 2015

C.C.NO.476/2014 OF CHIEF JUDICIAL MAGISTRATE COURT, KASARAGOD

CRIME NO. 989/2013 OF KASARAGOD POLICE STATION, KASARAGOD

PETITIONER(S)/ACCUSED :

- 1. ABDUL LATHEEF, AGED 32 YEARS,
S/O.MOHAMMED, RAMSEENA MANZIL, SHIRIBAGILU VILLAGE,
KASARAGOD DISTRICT.**
- 2. MUNEER, AGED 30 YEARS,
S/O.MOHAMMED, RAMSEENA MANZIL, SHIRIBAGILU VILLAGE,
KASARAGOD DISTRICT.**
- 3. HAMEED @ SHAHU, AGED 30 YEARS,
S/O.MOHAMMED, RAMSEENA MANZIL, SHIRIBAGILU VILLAGE,
KASARAGOD DISTRICT.**

BY ADV. SRI.P.VKUNHIKRISHNAN

RESPONDENT(S)/COMPLAINANT & STATE :

- 1. SHAMSUDEEN MOHAMMED, AGED 36 YEARS,
S/O.MUHAMMED FAREED, BILAL MANZIL, MANJATHADKKA,
SHIRIBAGILU VILLAGE, KASARAGOD DISTRICT- 671 541.**
- 2. FOUSIA, AGED 26 YEARS,
W/O.SHAMSUDEEN MOHAMMED, BILAL MANZIL, MANJATHADKKA,
SHIRIBAGILU VILLAGE, KASARAGOD DISTRICT- 671 541.**
- 3. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM- 682 031.**

R1 & R2 BY ADV. SRI.P.V.ANOOP

R3 BY PUBLIC PROSECUTOR SRI.A.J.JOSE AEDAIDI

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 28-04-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' ANNEXURES :

- ANNEXURE A:** TRUE COPY OF THE FIR IN CRIME NO.989/2013 OF KASARAGOD POLICE.
- ANNEXURE B:** TRUE COPY OF THE POLICE CHARGE DATED 25.03.2014 WHICH IS NOW PENDING AS C.C.NO.476/2014 ON THE FILE OF THE CHIEF JUDICIAL MAGISTRATE COURT, KASARAGOD.
- ANNEXURE C:** TRUE COPY OF THE AFFIDAVIT FILED BY THE FIRST RESPONDENT DATED 23.01.2015.
- ANNEXURE D:** TRUE COPY OF THE AFFIDAVIT FILED BY THE 2ND RESPONDENT DATED 23.01.2015.

RESPONDENT(S)' ANNEXURES :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

ANIL K. NARENDRA, J.

Crl.M.C. No. 973 of 2015

Dated this the 28th day of April, 2015

ORDER

Petitioners are accused in C.C. No. 476/2014 on the file of the Chief Judicial Magistrate Court, Kasaragod in Crime No. 989/2013 of Kasargode Police Station. The learned Magistrate took cognizance of the offences under Sections 341,447,324,354 and 326 read with Section 34 of Indian Penal Code, based on a private complaint filed by the first respondent. Now, it is submitted on behalf of the petitioners that the entire dispute between the petitioners and the respondents 1 and 2 has already been settled and the respondents 1 and 2 have sworn to affidavits which are produced along with Crl.M.C. as Annexures C and D. Therefore, the prayer in this Crl.M.C. is to quash the entire proceedings in C.C. No. 476/2014 on the file of the Chief Judicial Magistrate Court, Kasaragod in Crime No. 989/2013 of Kasargode Police Station.

2. Heard, the learned counsel for petitioners, learned counsel for the respondents 1 and 2 and the learned Public

Prosecutor appearing for the third respondent.

3. In **Gian Singh v. State of Punjab (2012 (10) SCC 303)**, the Apex Court held that, the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a Criminal Court for compounding the offences under Section 320 of the Code of Criminal Procedure. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz.; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or FIR may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the

offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc.; cannot provide for any basis for quashing criminal proceedings involving such offences. But criminal cases having overwhelmingly and predominatingly civil flavour stand on a different footing for the purpose of quashing, particularly offences arising from commercial, financial, mercantile, civil partnership or such like transactions or the offences arising out of matrimonial relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In these categories of cases, High Court may quash criminal proceedings, if in its view, because of the compromise between the offender and the victim, the possibility of a conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be

caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court may consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceedings or continuation of criminal proceedings would tantamount to abuse of process of law despite settlement and compromise between the victim and wrong-doer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question is in affirmative the High Court shall be well within its jurisdiction to quash the criminal proceedings.

4. The allegation against the petitioners is that they have committed offences under Sections 341,447,324,354 and 326 read with Section 34 of Indian Penal Code.

5. Now as submitted by both sides, the entire dispute between the petitioners and the respondents 1 and 2 has already been settled amicably and the learned counsel for the respondents 1 and 2 has also stated that the respondents 1 and 2 do not want to prosecute the criminal case filed against the

petitioners. The respondents 1 and 2 have also sworn to an affidavit before this Court as Annexures C and D in this regard.

6. In such circumstances, this is a fit case in which the proceedings pending against the petitioners in C.C. No. 476/2014 on the file of the Chief Judicial Magistrate Court, Kasaragod in Crime No. 989/2013 of Kasargode Police Station can be quashed by this Court invoking the powers under Section 482 of the Code of Criminal Procedure, in the light of the principles laid down by the Apex Court in **Gian Sing's case (supra)**.

In the result, this Crl.M.C. is allowed and the entire proceedings in C.C. No. 476/2014 on the file of the Chief Judicial Magistrate Court, Kasaragod in Crime No. 989/2013 of Kasargode Police Station against the petitioners are quashed.

**ANIL K. NARENDRA
JUDGE**

DCS