

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

FRIDAY, THE 24TH DAY OF APRIL 2015/4TH VAISAKHA, 1937

Crl.MC.No. 1691 of 2015 ()

**AGAINST THE FURTHER PROCEEDINGS PENDING IN CC 638/2014
OF ADDL.C.J.M.(E&O), ERNAKULAM IN
CRIME NO. 1570/2012 OF ERNAKULAM TOWN SOUTH POLICE STATION, ERNAKULAM.**

PETITIONER(S)/ACCUSED 1 TO 3:

- 1. VARGHESE MAMMEN @ MELBIN, AGED 28 YEARS,
S/O.GEORGE MAMMEN, PULICKAL HOUSE, KONTHURUTHY,
THEVARA.**
- 2. GEORGE MAMMEN, AGED 55 YEARS,
PULICKAL HOUSE, KONTHURUTHY, THEVARA.**
- 3. BABY @ MARY, AGED 53 YEARS,
W/O.GEORGE MAMMEN, PULICKAL HOUSE, KONTHURUTHY,
THEVARA.**

**BY ADVS.SRI.C.A.CHACKO
SRI.M.B.VIMALRAJ
SMT.C.M.CHARISMA**

RESPONDENT(S)/COMPLAINANT & DEFACTO COMPLAINANT:

- 1. STATE OF KERALA,
REPRESENTING SUB INSPECTOR OF POLICE,
ERNAKULAM TOWN SOUTH POLICE STATION,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-31.**
- 2. SUNITHA ANTONY, AGED 24 YEARS,
D/O.BABU @ P.G.ANTONY, PALLIPARAMBIL HOUSE,
PONNARIMANGALAM.P.O., KOCHI-682 504.**

**R1 BY PUBLIC PROSECUTOR SMT. M.T.SHEEBA.
R2 BY ADV. SRI.K.C.ELDHO.**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 24-04-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

:2:

Crl.MC.No. 1691 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

**ANNEXURE A1- CERTIFIED COPY OF FIR IN CRIME NO.1570/2012 OF ERNAKULAM
TOWN SOUTH POLICE STATION DATED 7.12.12 ALONG WITH
CMP.1946/12 FILED BY 2ND RESPONDENT.**

**ANNEXURE A2- TRUE COPY OF AGREEMENT DATED 11.3.2015 ENTERED AT
MEDIATION CENTRE, ERNAKULAM.**

ANNEXURE A3- AFFIDAVIT DATED 11.3.2015 OF 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS

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//True Copy//

P.A. to Judge

SS

K. RAMAKRISHNAN, J.

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Crl. M.C. No.1691 of 2015

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Dated this the 24th day of April, 2015

ORDER

This is an application filed by accused Nos. 1 to 3 to quash the proceedings in C.C. No.638/2014 on the file of Additional Chief Judicial Magistrate Court (Economic Offences), Ernakulam, on the basis of settlement under Section 482 of the Code of Criminal Procedure.

2. It is alleged in the petition that the first petitioner married the second respondent and they were living together as husband and wife. Petitioners 2 and 3 are the father and mother of the first petitioner. There was some misunderstanding arose between them and on account of the same, they started residing separately and the second respondent filed Crl.M.P.1946/2012 alleging offence under Section 498A read with Section 34 of the Indian Penal Code, which was forwarded to the police by the learned magistrate and on that basis Annexure-A1 first information report was registered as Crime No.1570/2012

of Ernakulam Town South Police station. After investigation final report was filed and it was taken on file as C.C.No. 638/2014 on the file of the Additional Chief Judicial Magistrate Court (Economic Offences), Ernakulam. Now the matter has been settled between the parties in the mediation held and they have decided to separate and on account of the settlement, second respondent does not want to prosecute the case. In view of the settlement, there is no possibility of conviction. Since the offence alleged is non-compoundable in nature, they cannot move the lower court for this purpose. So in view of the settlement, conviction is remote. So the petitioner has no other remedy except to approach this court, seeking the following relief:

“This Hon'ble Court may be pleased to quash Annexure-A1 FIR in Crime No.1570/2012 of Ernakulam Town South Police Station and its further proceedings pending as C.C.No.638/2014 before the Additional Chief Judicial Magistrate Court(EO), Ernakulam, so as to secure the ends of justice”.

3. Second respondent appeared through counsel and submitted that, the matter has been settled and

she has no objection in quashing the proceedings. Second respondent has filed Annexure-III affidavit stating these facts.

4. The counsel for the petitioner also submitted that, in view of the settlement, there is no possibility of conviction. So he prayed for allowing the application.

5. The application was opposed by the Public Prosecutor.

6. It is an admitted fact that first petitioner married the second respondent and on the basis of a private complaint filed, which was forwarded to the police, Annexure-A1 crime was registered and after investigation final report was filed and it was taken on file as C.C.No.638/2014 before the Additional Chief Judicial Magistrate Court (Economic Offences), Ernakulam, alleging offence under Section 498A read with Section 34 of the Indian Penal Code against the petitioners. Now the matter has been settled between the parties evidenced by

Annexure-A2, when the case was referred to mediation in M.C.298/2014, pending before the Family Court, Ernakulam and on that basis they have decided to separate and joint petition for divorce has been agreed to be filed. In view of the settlement, second respondent did not want to prosecute the case and she filed Annexure-A3 affidavit stating these facts and expressing her willingness to quash the proceedings on the basis of settlement. In view of the settlement there is no possibility of conviction, as neither the defacto-complainant nor her witnesses will support the case of the prosecution. Allowing the case to proceed will only amount to wastage of judicial time.

7. Further in the decision reported in **Gian Singh v. State of Panjab [2012(4) KLT 108 (SC)]**, the Supreme Court has held that, in cases of private disputes and matrimonial disputes which resulted in registering of crime and filing of final report and if the matter has been settled due to the intervention of mediators, then, even if

non-compoundable offences have been incorporated, court has to invoke the power under Section 482 of the Code of Criminal Procedure to quash the proceedings in order to honour the settlement and harmony that has been reached among the family members on account of the intervention of the well-wishers of both the parties.

8. Considering the fact that, it is a matrimonial dispute, which resulted in registration of the crime and filing of final report and the matter has been settled between the parties and on account of the settlement, possibility of conviction is remote and allowing the case to proceed will only amount to wastage of judicial time, this court feels that, it is a fit case where the power under Section 482 can be invoked to quash the proceedings to promote the settlement and harmony that has been resulted in the two families due to the intervention of the mediators.

So the application is allowed and further proceedings in C.C.No.638/2014 (Crime No.1570/2012 of

Ernakulam Town South Police Station) pending before the Additional Chief Judicial Magistrate Court (Economic Offences), Ernakulam, against the petitioners is quashed.

Office is directed to communicate this order to the concerned court, immediately.

Sd/-

K. RAMAKRISHNAN, JUDGE

// True Copy//

P.A. to Judge

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