

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. 2410 of 2015 ()

CRIME NO. 841/2014 OF KOTHAMANGALAM POLICE STATION, ERNAKULAM DISTRICT

PETITIONER/ACCUSED :

**MANOJ KUMAR,
S/O.MADHAVAN, AGED 40 YEARS,
RAJA SADAN, AYIROORPADAM.P.O., THRIKKARIYOOR VILLAGE,
KOTHAMANGALAM TALUK, ERNAKULAM DIST, PIN-686 692**

BY ADV. SRI.K.T.THOMAS

RESPONDENT(S)/DEFACTO COMPLAINANT :

- 1. THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. SUNITHA,W/O.MANOJ KUMAR, AGED 32 YEARS,
RAJA SADAN, AYIROORPADAM.P.O., THRIKKARIYOOR VILLAGE,
KOTHAMANGALAM TALUK, ERNAKULAM DIST, PIN-686 692**

**R1 BY PUBLIC PROSECUTOR SRI.ABHIJETT LESSLI
R2 BY ADV. SRI.SABU PJOSEPH**

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

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CRMC.NO.2410/2015

APPENDIX

PETITIONER'S ANNEXURES:

- | | |
|----------------|---|
| ANNEX 1 | CERTIFIED COPY FIR IN CRIME NO.242/2014 OF KOTTAPADY POLICE STATION. |
| ANNEX 2 | CERTIFIED COPY FIR IN CRIME NO.841/2014 OF KOTHAMANGALAM POLICE STATION. |
| ANNEX 3 | CERTIFIED COPY OF CHARGE SHEET IN CRIME NO.841/2014 OF KOTHAMANGALAM POLICE STATION. |
| ANNEX 4 | COPY OF THE AFFIDAVIT DATED 23/03/2015 EXECUTED BY BOTH PETITIONER AND 2ND RESPONDENT. |

RESPONDENT'S ANNEXURES:

NIL

/TRUE COPY/

P.S.TO JUDGE

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ANIL K.NARENDRA, J

Crl.M.C.No.2410 Of 2015

DATED THIS THE 28th DAY OF APRIL, 2015

ORDER

Petitioner is the sole accused in Crime No.841/14 of Kothamangalam Police Station, Ernakulam district. The offences alleged against the petitioner are under Sections 498A, 323, 341 and 506(2) of Indian Penal Code. Now, it is submitted on behalf of the petitioner that the entire disputes between the petitioner and the second respondent have already been settled and they jointly filed an affidavit which is produced along with Crl.M.C. as Annexure 4. Therefore, the prayer in this Crl.M.C. is to quash the entire proceedings in Crime No.841/2014 of Kothamangalam Police Station.

2. Heard, the learned counsel for petitioner, learned Public Prosecutor appearing for the first respondent and the learned counsel for the second 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 petitioner is that he has committed offences punishable under Sections 498A, 323, 341 and 506(2) of Indian Penal Code.

5. Now as submitted by both sides, the entire dispute between the petitioner and the second respondent has already been settled amicably and the learned counsel for the second respondent has also stated that the second respondent does not want to prosecute the criminal case filed against the petitioner. The petitioner and the second respondent jointly filed an affidavit also before this Court as Annexure 4 in this regard. It is also submitted that they are now residing together.

6. In such circumstances, this is a fit case in which the

proceedings pending against the petitioner in Crime No.841/14 of Kothamangalam Police Station, Ernakulam district 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 CrI.M.C. is allowed and the entire proceedings in Crime No.841/14 of Kothamangalam Police Station, Ernakulam district against the petitioner is quashed.

Sd/-
ANIL K.NARENDRA,
JUDGE

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