

**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. 2466 of 2015 ()**  
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**CRIME NO. 138/2010 OF ADHUR POLICE STATION, KASARAGOD DISTRICT**  
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**PETITIONERS/ACCUSED :**  
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- 1. KASIM G.K., AGED 36 YEARS  
S/O. LATE ABBAS, RESIDING AT ARAFATH MANZIL, KINNINGAR  
KINNINGAR VILLAGE, KASARGOD TALUK, KASARGOD DISTRICT.**
- 2. ISMAIL G.K., AGED 44 YEARS  
S/O. LATE ABBAS, RESIDING AT ARAFATH MANZIL, KINNINGAR  
KINNINGAR VILLAGE, KASARAGOD TALUK, KASARGOD DISTRICT.**

**BY ADV. SRI.T.MADHU**

**RESPONDENTS/STATE :**  
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- 1. SHEREEFA A.K., AGED 34 YEARS  
D/O. MUHAMMED KUNHI, RESIDING AT KAYAKKUNNU HOUSE  
KALICHANADUKKAM P.O., THAYANNUR VILLAGE, NILESHWAR  
HOSDURG TALUK, KASARAGOD DISTRICT - 671 341.**
- 2. THE STATE OF KERALA  
THROUGH THE STATION HOUSE OFFICER,  
ADHUR POLICE STATION  
REPRESENTED BY THE PUBLIC PROSECUTOR  
HIGH COURT OF KERALA  
ERNAKULAM – 682 031.**

**R1 BY ADV. SMT.G.SANGEETHA  
R2 BY PUBLIC PROSECUTOR SRI. ABHIJETT LESSLI**

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

**Mn**

**...2/-**

**Crl.MC.No. 2466 of 2015 ()**  
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**APPENDIX**

**PETITIONERS' ANNEXURES :**  
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- ANNEXURE A1:** THE TRUE CERTIFIED COPY OF THE COMPLAINT IN C.M.P. NO. 2417/2010 ON THE FILES OF THE LEARNED JUDICIAL FIRST CLASS MAGISTRATE'S COURT-I, KASARAGOD.
- ANNEXURE A2:** THE TRUE CERTIFIED COPY OF THE FIR IN CRIME NO.138/2010 OF ADHUR POLICE STATION.
- ANNEXURE A3:** THE TRUE CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO. 138/2010 OF ADHUR POLICE STATION.
- ANNEXURE A4:** THE TRUE CERTIFIED COPY OF THE JUDGMENT DATED 02.12.2014 IN C.C.NO. 1678/2010 ON THE FILES OF THE LEARNED JUDICIAL FIRST CLASS MAGISTRATE'S COURT-I, KASARAGOD.
- ANNEXURE A5:** THE TRUE COPY OF THE AGREEMENT DATED 21.11.2014 ENTERED INTO BETWEEN THE 1ST RESPONDENT HEREIN AND THE ACCUSED IN CRIME NO. 138/2010 OF ADHUR POLICE STATION.
- ANNEXURE A6:** THE AFFIDAVIT DATED 27.12.2014 SWORN IN BY THE 1ST RESPONDENT.

**RESPONDENT(S)' EXHIBITS :** NIL  
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**//TRUE COPY//**

**P.S. TO JUDGE**

**Mn**

**ANIL K.NARENDRA, J**

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**Crl.M.C.No.2466 Of 2015**  
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**DATED THIS THE 28<sup>th</sup> DAY OF APRIL, 2015**

**ORDER**

Petitioners are accused Nos.1 and 3 in Crime No.138/2010 of Adhur Police Station, Kasaragod District, which is now pending as C.C.No.4188/2014 of Judicial First Class Magistrate Court-I, Kasaragod. The learned Magistrate took cognizance of the offence under Section 498A 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 disputes between the petitioners and the first respondent have already been settled and the first respondent has also sworn to an affidavit which is produced along with Crl.M.C. as Annexure A6. Therefore, the prayer in this Crl.M.C. is to quash the entire proceedings in C.C.No.4188/2014 of Judicial First Class Magistrate Court-I, Kasaragod .

2. Heard, the learned counsel for petitioners, learned counsel appearing for the first respondent and the learned Public Prosecutor 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 petitioners is that they have committed an offence punishable under Section 498A of the Indian Penal Code.

5. Now as submitted by both sides, the entire dispute between the petitioners and the first respondent has already been settled amicably and the learned counsel for the first respondent has also stated that the first respondent does not want to prosecute the criminal case filed against the petitioners. The first respondent has also sworn to an affidavit before this Court as Annexure A6 in this regard.

6. In such circumstances, this is a fit case in which the proceedings pending against the petitioners in C.C.No.4188/2014 of Judicial First Class Magistrate Court-I, Kasaragod 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.4188/2014 of Judicial First Class Magistrate Court-I, Kasaragod against the petitioners is quashed.

Sd/-  
**ANIL K.NARENDRA,**  
**JUDGE**

dsn