

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. 2470 of 2015 ()

CRIME NO. 627/2014 OF PONNANI POLICE STATION, MALAPPURAM DISTRICT

PETITIONER(S)/ACCUSED 1 TO 4:

1. SAHEER, AGED 31 YEARS, S/O.MUHAMMED,
VALIYAVALLAPIL HOUSE, THRIKKAVU,
PONNANI.
2. MUHAMMED, AGED 55 YEARS,
VALIYAVALLAPIL HOUSE, THRIKKAVU, PONNANI.
3. AYSHA, AGED 44 YEARS, W/O.MUHAMMED,
VALIYAVALLAPIL HOUSE, THRIKKAVU,
PONNANI.
4. SHABEENA, AGED 25 YEARS, D/O.MUHAMMED,
VALIYAVALLAPIL HOUSE, THRIKKAVU, PONNANI.

BY ADV. SRI.K.B.ARUNKUMAR

RESPONDENT(S)/STATE AND DEFACTO COMPLAINANT :

1. STATE OF KERALA,
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
PONNANI POLICE STATION, MALAPPURAM DISTRICT,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-31
2. JASEENA, D/O.MUHAMMED, AGED 31 YEARS,
THEKKAYIL HOUSE, BEHIND PONNATHUL SCHOOL,
AYROOR P.O., PALAPPETTY, PONNANI TALUK,
MALAPPURAM DISTRICT-679 580.

R1 BY PUBLIC PROSECUTOR SRI.ABHIJETT LESSLI

R2 BY ADV. SRI.K.SIJU

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

sts

Crl.MC.No. 2470 of 2015 ()

APPENDIX

PETITIONER(S)' ANNEXURES:

- ANNEX-1. CERTIFIED COPY OF THE FIR IN CRIME NO.627/2014 OF PONNANI
POLICE STATION NOW PENDING ON THE FILE OF THE JUDICIAL FIRST
CLASS MAGISTRATE COURT, PONNANI.**
- ANNEX-2. TRUE COPY OF THE AGREEMENT EXECUTED BETWEEN THE 1ST
PETITIONER AND 2ND RESPONDENT.**
- ANNEX-3. AFFIDAVIT EXECUTED BY THE 2ND RESPONDENT**

RESPONDENT(S)' ANNEXURES:

NIL

/TRUE COPY/

P.S.TO JUDGE

sts

ANIL K.NARENDRA, J

Crl.M.C.No.2470 Of 2015

DATED THIS THE 28th DAY OF APRIL, 2015

ORDER

Petitioners are accused Nos.1 to 4 in Crime No.627/2014 of Ponnani Police Station, which is now pending before the Judicial First Class Magistrate Court, Ponnani. The offences alleged against the petitioners are under Sections 406, 420, 323, 324 and 498A read with Section 34 of Indian Penal Code. Now, it is submitted on behalf of the petitioners that the entire disputes between the petitioners and the second respondent have already been settled and the second respondent has also sworn to an affidavit which is produced along with Crl.M.C. as Annexure 3. Therefore, the prayer in this Crl.M.C. is to quash the entire proceedings in Crime No.627/2014 of Ponnani Police Station, which is now pending before the Judicial First Class Magistrate Court, Ponnani.

2. Heard the learned counsel for petitioners, 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 petitioners is that they have committed offences punishable under Sections 406, 420, 323, 324 and 498A read with Section 34 of Indian Penal Code.

5. Now as submitted by both sides, the entire dispute between the petitioners 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 petitioners. The second respondent has also sworn to an affidavit before this Court as Annexure 3 in this regard.

6. In such circumstances, this is a fit case in which the proceedings pending against the petitioners in Crime No.627/2014 of Ponnani Police Station, which is now pending before the Judicial First Class Magistrate Court, Ponnani 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 Crime No.627/2014 of Ponnani Police Station, which is now pending before the Judicial First Class Magistrate Court, Ponnani against the petitioners is quashed.

Sd/-
ANIL K.NARENDRA,
JUDGE

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