

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

TUESDAY, THE 21ST DAY OF APRIL 2015/1ST VAISAKHA, 1937

CrI.MC.No. 2528 of 2015 (C)

**CC 407/2014 of J.F.C.M.COURT - VI, KOZHIKODE
CRIME NO. 657/2013 OF KASABA POLICE STATION , KOZHIKODE**

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PETITIONER(S)/ACCUSED :

**UNNIKRISHNAN N.V., AGED 24 YEARS,
S/O PADMANABHAN NAIR, MANIKYATHATTIL HOUSE,
KALOOR ROAD, MANAKAVU P.O, AZHCHAVATTOM,
KOZHIKODE DISTRICT.**

BY ADV. SRI.V.T.MADHAVANUNNI

RESPONDENT(S)/STATE & DEFACTO COMPLAINANT:

**1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA AT ERNAKULAM
THROUGH S.H.O. KASABA POLICE STATION, KOZHIKODE DISTRICT.**

**2. PADMANABHAN NAIR. N.V.,
S/O KRISHNAN NAIR, MANIKYATHATTIL HOUSE,
KALOOR ROAD, MANKAVU P.O, AZHCHAVATTOM,
KOZHIKODE DISTRICT**

R1 BY PUBLIC PROSECUTOR SRI. EGY N. ELIAS

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 21-04-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

CrL.MC.No. 2528 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

**ANNEXURE A1: TRUE COPY OF THE FIR IN CRIMNE NO. 657/2013 ODF KASABA POLICE
STATION**

RESPONDENT(S)' EXHIBITS : NIL

OKB

//TRUE COPY//

P.A. TO JUDGE

K.HARILAL, J.

Cr1.M.C. No.2528 of 2015

Dated this the 21st day of April, 2015.

O R D E R

The petitioner is the sole accused in C.C. No.407/2014 pending before the Judicial First Class Magistrate's Court-VI, Kozhikode. The above case was originally registered as Crime No.657/2013 of Kasaba Police Station, Kozhikode. Respondent No.2 is the de facto complainant and the crime was registered for the offence punishable under Section 324 of the Indian Penal Code. In this petition, it is stated that the dispute between the petitioner and the second respondent are purely personal in nature and they have already settled the entire dispute and now the second respondent does not entertain to proceed with prosecution against the petitioner. The second respondent has filed an affidavit stating that he has no subsisting grievance against the petitioner and he

wants to put an end to the prosecution against the petitioner. The petitioner and the second respondent jointly filed an application under Section 320 read with Section 482 of the Code of Criminal Procedure also. This Crl.M.C. is filed with a prayer to quash the prosecution against the petitioner under Ext.A1 F.I.R. pending in prosecution under C.C. No.407/2014 on the files of the Judicial First Class Magistrate's Court-VI, Kozhikode.

2. Heard the learned counsel for the petitioner and the learned Public Prosecutor.

3. The learned counsel for the petitioner submits that what is stated in the affidavit filed by the second respondent is true and correct to the best of his knowledge and belief. The learned counsel for the second respondent also urged for quashing the proceedings in C.C. No.407/2014 invoking inherent jurisdiction and power under Section 482 of the Cr.P.C. In support of the above argument, the learned counsel

for the petitioner cited *Gian Singh v. State of Punjab* [2012 (4) KLT 108 (SC)].

4. I have meticulously considered the decision laid down in *Gian Singh v. State of Punjab* [2012 (4) KLT 108 (SC)]. In the above case, three Judge Bench of the Apex Court, on a reference, considered the question whether the High Court has power to quash criminal proceedings involving non-compoundable offences on the basis of the compromise reached between the offender and the victim and answered as given below:

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or F.I.R. 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 S.320 of the Code. 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 F.I.R. 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 the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony 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 this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote, 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 must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the

criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer 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(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

5. In view of the proposition laid down above, the question to be considered, in the instant case, is, whether the non-compoundable offence involved in this case can be compounded, in the exercise of the inherent power under Section 482 of the Cr.P.C. Prima facie, I find that the offences alleged against the petitioners will not come under the category of non-compoundable offences, which are specifically excluded from composition, in the exercise of inherent power under Sec.482 of the Cr.P.C. Going by the affidavit filed by the de facto complainant, it is seen that the dispute between the accused and the victim had been amicably settled and at present the de facto complainant has no subsisting grievance at all. The de facto complainant does not want to

proceed with prosecution against the accused. Full and final settlement and compromise with the victim are evidenced by the affidavit filed by the second respondent. In view of the compromise between the petitioner and the victim, I find that the possibility of conviction is remote, bleak, and continuation of the criminal case would put the parties to great oppression, prejudice and also tantamount to abuse of the process of the court. The present criminal prosecution against the accused must be put to an end to secure the interest of justice.

6. In this analysis, the prosecution proceedings against the petitioner under Annexure-A1 F.I.R. will stand quashed, in the exercise of jurisdiction and power under Section 482 of the Cr.P.C.

This petition is allowed.

Sd/-
(K.HARILAL, JUDGE)

okb.