

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

Cr1.MC.No. 2568 of 2015 ()

CC 1049/2013 of J.M.F.C.-I, HOSDURG
CRIME NO.654/2007 OF HOSDURG POLICE STATION

PETITIONER/ACCUSED :-

ABDUL RAHIMAN @ ANDRU, AGED 33 YEARS
S/O ABDULLA SOUDA MANZIL, MADIYAN, MANIKOTH
CHITHARI VILLAGE, KASARAGOD DISTRICT, PIN:671316.

BY ADVS.SRI.K.J.MOHAMMED ANZAR
SMT.P.R.SOPHIYA

RESPONDENTS/STATE/COMPLAINANT AND DEFACTO-COMPLAINANT :-

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1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.
 2. THE STATION HOUSE OFFICER
HOSDURG POLICE STATION, KASARAGOD DISTRICT
PIN:671 121.
 3. C.H.SHAREEFA, AGED 34 YEARS
D/O MUHAMMEDKUNHI, ITTAMMAL NOOR MASJID
BALLA KADAPPURAM, BALLA VILLAGE, HOSDURG TALUK
KASARAGOD DISTRICT, PIN:671531.

R3 BY ADV. SRI.T.B.GAFOOR
R1 & R2 BY PUBLIC PROSECUTOR SRI.ABHIJITT LESSLI

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

jvt

Cr1.MC.No. 2568 of 2015 ()

APPENDIX

PETITIONER(S) ' EXHIBITS :-

ANNEXURE A1: CERTIFIED COPY OF THE FIR IN CRIME NO.654/2007 OF
HOSDURG POLICE STATION.

ANNEXURE A2: CERTIFIED COPY OF THE FINAL REPORT IN ANNEXURE A1
CRIME.

ANNEXURE A3: CERTIFIED COPY OF THE JUDGMENT DATED 30.3.2011 IN
C.C.NO.285/2008 OF JFCM COURT-I, HOSDURG.

ANNEXURE A4: ORIGINAL AFFIDAVIT DATED 11.4.2015 SWORN BY THE 3RD
RESPONDENT.

RESPONDENT(S) ' EXHIBITS :- NIL

//TRUE COPY//

P.A. TO JUDGE

ANIL K. NARENDRA, J.

Crl.M.C. No.2568 of 2015

Dated this the 28th day of April 2015

ORDER

Petitioner is the sole accused in C.C.No.1049 of 2013 on the file of Judicial First Class Magistrate Court-I, Hosdurg. The learned Magistrate took cognizance of the offence under Section 498A of Indian Penal Code, based on a private complaint filed by the third respondent. Now, it is submitted on behalf of the petitioner that the entire disputes between the petitioner and the third respondent have already been settled and the third respondent has also sworn an affidavit which is produced along with Crl.M.C. as Annexure A4. Therefore, the prayer in this Crl.M.C. is to quash the entire proceedings in C.C.No.1049 of 2013 on the file of Judicial First Class Magistrate Court-I, Hosdurg.

2. Heard, the learned counsel for petitioner, learned Public Prosecutor appearing for respondent Nos.1 and 2 and the learned counsel for the third 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 accordance with the guidelines 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

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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 an offence punishable under Section 498A of the Indian Penal Code.

5. Now as submitted by both sides, the entire dispute between the petitioner and the third respondent has already been settled amicably and the learned counsel for the third respondent has also stated that the third respondent does not want to prosecute the criminal case filed against the petitioner. The third respondent has also filed Annexure-A4 affidavit before this Court in this regard.

6. In such circumstances, this is a fit case in which the proceedings pending against the petitioner in C.C.No.1049 of 2013 on the file of Judicial First Class Magistrate Court-I, Hosdurg can be quashed by this Court invoking the powers

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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.1049 of 2013 on the file of Judicial First Class Magistrate Court-I, Hosdurg against the petitioner is quashed.

Sd/-
ANIL K. NARENDRA
JUDGE

Jvt