

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. 2602 of 2015 ()

**CC.NO. 1591/2012 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-1, HOSDURG
CRIME NO. 219/2012 OF CHANDERA POLICE STATION, KASARAGOD DISTRICT**

PETITIONER(S)/ACCUSED:

1. KUNHI AHAMED, AGED 29 YEARS,
S/O.ABDUL RAHIMAN, RESIDING AT KUZHINHADI,
CHERUVATHUR VILLAGE, HOSDURG TALUK,
KASARGOD DISTRICT.
2. MAYIMOONA, AGED 55 YEARS,
W/O.ABDUL RAHIMAN, RESIDING AT KUZHINHADI,
CHERUVATHUR VILLAGE, HOSDURG TALUK,
KASARGOD DISTRICT.
3. ABDUL RAHIMAN, AGED 63 YEARS,
S/O.KUNHAMMED, RESIDING AT KUZHINHADI,
CHERUVATHUR VILLAGE, HOSDURG TALUK,
KASARGOD DISTRICT.

BY ADV. SRI.T.MADHU

RESPONDENT(S)/STATE:

1. MUMTAZ M.C., AGED 24 YEARS,
D/O.YUSUFF.M.T.P., RESIDING AT M.C.HOUSE, KORAMKULAM,
MANIYAT, UDINOOR VILLAGE, UDINOOR P.O.,
HOSDURG TALUK, KASARAGOD DISTRICT, PIN-671 310.
2. THE STATE OF KERALA,
THROUGH THE STATION HOUSE OFFICER,
CHANDERA 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:**

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Crl.MC.No. 2602 of 2015 ()

APPENDIX

PETITIONER(S)' ANNEXURES:

- ANNEX-A1: THE TRUE CERTIFIED COPY OF THE COMPLAINT IN
C.M.P.NO2989/2012 ON THE FILES OF THE LEARNED JUDICIAL FIRST
CLASS MAGISTRATE'S COURT-I, HOSDURG.**
- ANNEX-A2: THE TRUE CERTIFIED COPY OF THE FIR IN CRIME NO.219/2012 OF
CHANDERA POLICE STATION.**
- ANNEX-A3: THE TRUE CERTIFIED COPY OF THE FINAL REPORT IN CRIME
NO.219/2012 OF CHANDERA POLICE STATION.**
- ANNEX-A4: THE AFFIDAVIT DATED 7.4.2015 SWORN IN BY THE 1ST RESPONDENT.**
- ANNEX-A5: THE TRUE COPY OF THE MEMO OF EVIDENCE IN CRIME NO.219/2012
OF CHANDERA POLICE STATION.**

RESPONDENT(S)' ANNEXURES: NIL

/TRUE COPY/

P.S.TO JUDGE

sts

ANIL K.NARENDRA, J

Crl.M.C.No.2602 Of 2015

DATED THIS THE 28th DAY OF APRIL, 2015

ORDER

Petitioners are the accused in Crime No.219/12 of Chandra Police Station, which is now pending as C.C.No.1591/12 of Judicial First Class Magistrate Court-I, Hosdurg. Annexures A2 and A3 are respectively the FIR and final report in the aforesaid crime. The learned Magistrate took cognizance of the offence under Section 498A read with Section 34 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-A4. Therefore, the prayer in this Crl.M.C. is to quash the entire proceedings in C.C. No1591/2012 on the file of the Judicial First Class Magistrate Court-I, Hosdurg.

2. Heard the learned counsel for petitioners, the learned counsel for the first respondent and learned Public Prosecutor appearing 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 Section 498A read with Section 34 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 A4 in this regard.

6. In such circumstances, this is a fit case in which the proceedings pending against the petitioners in C.C.No. 1591/2012 on the file of the Judicial First Class Magistrate Court-I, Hosdurg 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 C.C. No.1591/2012 on the file of the Judicial First Class Magistrate Court-I, Hosdurg against the petitioners is quashed.

Sd/-
ANIL K.NARENDRA,
JUDGE

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