

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

THURSDAY, THE 21ST DAY OF MAY 2015/31ST VAISAKHA, 1937

Crl.MC.No. 2835 of 2015

LP 98/2006 of CHIEF JUDICIAL MAGISTRATE COURT, ERNAKULAM

PETITIONER(S)/1ST ACCUSED :

**RABIYA, AGED 39 YEARS,
D/O. ALIYAR, PALLIPARAMBIL HOUSE, NETTOOR P.O.
MARADU VILLAGE, ERNAKULAM.**

**BY ADVS.SRI.SHABU SREEDHARAN
SRI.S.VIJAYAN
SRI.N.MUHAMMAD SAJU
SRI.SREEDHARAN KARATTA
SMT.RESHMA ABDUL RASHEED**

RESPONDENT(S)/COMPLAINANT & CWS 1 TO 4:

- 1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**
- 2. RAVI, S/O. KUTTAN, KANIYANCHERY HOUSE,
MUILAVUKADU P.O., ERNAKULAM-682 504.**
- 3. M.F.VARGHESE
S/O. FRANCIS, MOONJAPPILLY HOUSE, THAMMANAM
PALARIVATTOM P.O., ERNAKULAM-682 025.**
- 4. V.K.RAJENDRAKUMAR
S/O. KESAVAPILLAI, VELLATTUPUTHENVEETIL, VALAMANGALAM
THURAVOOR P.O., ALAPPUZHA-688 532.**
- 5. O.R.SASI, S/O. RAVEENDRAN, OLIPARAMBU HOUSE,
KUMBALANGI VAZHI, ERNAKULAM-682 007.**

**R1 BY PUBLIC PROSECUTOR SMT.S.HYMA
R2-R5 BY ADVS. SRI.T.SANURAJ
SRI.C.PAULOSE**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 21-05-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 2835 of 2015

APPENDIX

PETITIONER(S)' ANNEXURES

ANNEXURE 1 : CERTIFIED COPY OF THE CHARGE SHEET DTD.18.5.1999.

**ANNEXURE 2 : COPY OF THE AFFIDAVIT SWORN IN BY THE RESPONDENTS 2
TO 5 DTD.13.5.2015.**

RESPONDENT(S)' ANNEXURES

NIL.

/ TRUE COPY

P.S. TO JUDGE

PJ

ALEXANDER THOMAS, J.

Crl.M.C. No. 2835 of 2015

Dated this the 21st day of May, 2015

ORDER

The petitioner is accused No.1 in Crime No.340/1998 of Ernakulam Central Police Station for offences under Section 420 r/w Section 34 of the IPC. Accused No.2 in the said Crime is one Sri.Peter Lal and the allegation is that both the accused had collected amounts from the de facto complainants (contesting respondents 2 to 5 herein) for with the promise to arrange employment visa to Saudi Arabia on various occasions in 1996 and without giving such visas, the said accused cheated them and thereby committed the above said offence.

2. As the petitioner was not available for trial as she was in Gulf country, the case was split up and the trial against A2 alone had proceeded and he was acquitted as per judgment dated 16/05/2006 in CC

No.1522/1999 by the Chief Judicial Magistrate Court, Ernakulam. The case against the petitioner was transferred to Long Pending Case , now numbered as LP No.98/2006 on the files of Chief Judicial Magistrate Court, Ernakulam. It is stated that the petitioner has now settled the matter with contesting respondents 2 to 5 and the offence under Section 420 of IPC is a compoundable offence as permissible under Section 340 of Cr.P.C. In these circumstances the de facto complainants (contesting respondents 2 to 5) have filed Annexure-2 affidavit stating that the 1st accused has paid the amounts due to the contesting respondents 2 to 5 and that they had settled the matter and that they have no objection in quashing the impugned criminal proceedings under Section 482 of the Code or for compounding the offence as permitted under Section 320 of the Cr.P.C. It is in the light of these facts and circumstances the petitioners have filed the present Crl.M.C with a prayer to quash all further proceedings in the impugned Annexure -1 final report/charge sheet in

Crime No.340/1998 on the file of Ernakulam Central Police Station which has now led to the pendency of LP No.98/2006 on the files of the Chief Judicial Magistrate's Court, Ernakulam to secure the ends of justice.

3. Heard Sri.Shabu Sreedharan, learned counsel for the petitioner and Sri.C.Paulose, learned counsel appearing for the contesting respondents 2 to 5 and the learned Public Prosecutor appearing for 1st respondent State of Kerala.

4. Sri.C.Paulose learned counsel appearing for the contesting respondents 2 to 5 submits that the petitioner herein has paid the entire amounts due to the contesting respondents as claimed by them and that the matter has been settled as sworn to by them in Annexure -2 affidavit and that as the offence under Section 420 of the IPC is compoundable as permitted by the provisions of Section 320 of the Cr.P.C, this court may invoke the jurisdiction under Section 482 to quash all further proceedings in the interest of justice. It is further submitted by the said contesting respondents

that they are not interested to continue the criminal proceedings as the other accused has already been acquitted by the court below as early as on 16/05/2006. The learned counsel for the petitioner has reiterated the submissions and contentions raised in the Crl.M.C. The learned Public Prosecutor submitted that the matter may be considered in the light of law declared by the Apex Court on such issues. As the co-accused has already been acquitted in this case and as the offence alleged in this petition is a compoundable one and that the entire dispute between the petitioner and the contesting respondents have been amicably settled by payment of the amounts due to the respondents 2 to 5, this Court is of the considered opinion that the dictum laid down by the Supreme Court in **Gian Singh Vs. State of Punjab reported in [(2012)10 SCC 303=2012(9) SCALE 257]** could be fittingly applied in the facts and circumstances of the case. Accordingly in the interest of justice it is ordered that the impugned proceedings in Annexure -1 Final Report/Charge Sheet

filed in Crime No.340/1998 of Ernakulam Central Police Station against the petitioner herein which was led to the pendency of LP No.98/2006 on the files of the Chief Judicial Magistrate Court, Ernakulam and all further proceedings arising therefrom stand quashed. Petitioner shall produce certified copy of this order before the Station House Officer concerned and the court below concerned.

With these observations and directions the Crl.M.C. stands finally disposed of.

Sd/-**ALEXANDER THOMAS**
JUDGE

MJL