

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

TUESDAY, THE 19TH DAY OF MAY 2015/29TH VAISAKHA, 1937

Cr1.MC.No. 2877 of 2015

AGAINST CC 1105/2013 of ADDITIONAL C.J.M. COURT,
TRIVANDRUM.

CRIME NO. 421/2013 OF MEDICAL COLLEGE POLICE STATION,
THIRUVANANDAPURAM

PETITIONER(S)/SECOND ACCUSED:

DR.SIVAGAMASUNDARI,
D/O.S.ANGAMUTHU, RESIDING AT M F-4, FLAT NO.201,
VRINDAVAN GARDEN, PATTOM P.O., TRIVANDRUM-695004.

BY ADVS.SRI.S.CHANDRASEKHARAN NAIR
SRI.K.KRILI KUMAR

RESPONDENT(S)/STATE:

1. STATE OF KERALA,
REPRESENTED BY ITS PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE,
MEDICAL COLLEGE POLICE STATION,
THIRUVANANTHAPURAM.

3. S.KUMARAGURU,
S/O.SUBRAMANI, RESIDING AT M F-4, FLAT NO.201,
VRINDAVAN GARDEN, PATTOM P.O., TRIVANDRUM-695004.

4. P.SUBRAMANI,
RESIDING AT M F-4, FLAT NO.201, VRINDAVAN GARDEN,
PATTOM P.O., TRIVANDRUM-695004.

5. LEELA,
W/O.SUBRAMANI, RESIDING AT M F-4, FLAT NO.201,
VRINDAVAN GARDEN, PATTOM P.O., TRIVANDRUM-695004.

BY PUBLIC PROSECUTOR SRI. R. RANJITH

THIS CRIMINAL MISC. CASE HAVING COME UP FOR
ADMISSION ON 19-05-2015, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING:

CRL.MC.NO. 2877 OF 2015:

APPENDIX

PETITIONER'S EXHIBITS:

ANNEXURE-A1 - CERTIFIED COPY OF CHARGE SHEET IN CC
NO.1105 OF 2013.

ANNEXURE-A2 - CERTIFIED COPY OF FIR IN CRIME NO.421 OF
2013 OF MEDICAL COLLEGE POLICE STATION,
THIRUVANANTHAPURAM.

//true copy//

P.S. to Judge

K. HARILAL, J.

Crl.M.C. No.2877 of 2015

Dated this the 19th day of May, 2015

ORDER

The petitioner is the de facto complainant in Crime No.421 of 2013 of the Medical College Police Station, Thiruvananthapuram, registered for the offences punishable under Sections 498A and 34 of the Indian Penal Code and Sec.4 of the Dowry Prohibition Act. The police charge sheeted the case as C.C.No.1105 of 2013 on the files of the Additional Chief Judicial Magistrate's Court, Thiruvananthapuram. The 3rd respondent is the husband of the petitioner and the 4th and 5th respondents are the in-laws.

2. In this petition it is stated that now the petitioner and the respondents 3 to 5 have settled the

entire family disputes and now they are living together. The petitioner has realised that the prosecution was lodged on mistake of fact and misunderstanding. The petitioner does not intend to proceed with the prosecution. The offences involved in this case are purely personal and do not affect the public peace and tranquility. Hence the petitioner prayed for quashing the entire proceedings in C.C.No.1105 of 2013. The learned counsel for the petitioner drew my attention to the decision reported in *Gian Singh v. State of Punjab* [2012 (4) KLT 108 (SC)].

3. 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;(1) 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 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 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.”

4. 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 Code of Criminal Procedure. Prima facie, I find that the offences alleged against the respondents 3 to 5 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 petition 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. In view of the compromise between the respondents 3 to 5 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.

5. In this analysis, the prosecution proceedings against respondents 3 to 5 under Annexure-A1 Final Report are quashed in exercise of jurisdiction and power under Section 482 of the Code of Criminal Procedure.

This petition is disposed of as above.

Sd/-

(K. HARILAL, JUDGE)

Nan/

//true copy//

P.S. to Judge