

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

FRIDAY, THE 19TH DAY OF JUNE 2015/29TH JYAISHTA, 1937

Crl.MC.No. 3290 of 2015

**JUDGMENT DATED 20-04-2015 CC 595/2015 OF JUDICIAL FIRST CLASS MAGISTRATE
COURT, KOZHIKODE
CRIME NO. 550/2013 OF CHEVAYUR POLICE STATION, KOZHIKODE**
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PETITIONER(S)/ACCUSED NO.4:

**AJAYAN, AGED 41 YEARS,
S/O.RAMUTTY, KOMPATT HOUSE, BEYPORE P.O.,
KOZHIKODE DISTRICT.**

BY ADV. SRI.U.K.DEVIDAS

RESPONDENT(S)/COMPLAINANT/STATE:

**1. UDISHA, AGED 27 YEARS,
D/O.SURESH KUMAR, 'UDAYAM', PUTHUSSERITHAZHAM HOUSE,
PARAMBIL BAZAR P.O., KURUVATTUR AMSOM, PARAMBIL DESOM,
KOZHIKODE DISTRICT - 673 018.**

**2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

R1 BY ADV. SMT.P.M.SHAHIDA

R2 BY PUBLIC PROSECUTOR SRI.DHANESH MATHEW MANJOORAN

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
19-06-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

Crl.MC.No. 3290 of 2015

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE I. TRUE COPY OF THE PRIVATE COMPLAINT FILED BY THE FIRST RESPONDENT.

ANNEXURE II. TRUE COPY OF THE FIR IN CRIME NO.550 OF 2013 OF KOZHIKODE POLICE STATION.

ANNEXURE III. CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.550 OF 2013 OF CHEVAYUR POLICE STATION FILED BY THE FIRST RESPONDENT RECEIVED FROM THE JFCM COURT-I, KOZHIKODE.

ANNEXURE IV. CERTIFIED COPY OF THE JUDGMENT DATED 20.04.2015 IN C.C.NO.1734 OF 2013.

ANNEXURE V. THE ORIGINAL OF THE AFFIDAVIT SWORN IN BY THE 1ST RESPONDENT DATED 30.05.2015.

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

K.HARILAL, J.

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Crl.M.C.No.3290 of 2015

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Dated this the 19th day of June, 2015

ORDER

Petitioner is the 4th accused in Crime No.550/2013 of the Chevayur Police Station, registered for the offences punishable under Sections 406, 323, 506(i) and 498A read with Section 34 of the Indian Penal Code.

2. Petitioner has come up with this Crl.M.C. under Section 482 Cr.P.C. for getting Annexure-III Final Report in Crime No No.550/13 of the Chevayur Police Station, and all further proceedings based on it in C.C.No.595 of 2015 pending before the Judicial First Class Magistrate's Court-I, Kozhikode, quashed. All the other accused faced trial and they were acquitted of the offences. The case against the petitioner was split up and now re-filed as C.C.No.595/2015 on the files of the Judicial First Class Magistrate's Court-I, Kozhikode.

3. The defacto complainant, who is the 1st respondent herein, has filed an affidavit affirming that, after the filing of the complaint, all the matters in dispute between her and the petitioner have been amicably settled out of court by way of mediation and all the parties unanimously decided to withdraw the complaint in the above said crime. Therefore, she has no complaints against the petitioner and she is not interested to prosecute the petitioner for the offences alleged against the petitioner.

4. The learned counsel for the petitioner advanced arguments in support of the grounds raised in this Crl.M.C. The learned counsel cited decision reported in **Gian Singh v. State of Punjab** [2012(4) KLT 108] and submits that, though the offence alleged against him is a non-compoundable offence, it can be compounded in exercise of jurisdiction under Section 482 of the Code of Criminal Procedure.

"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.”

5. The learned counsel appearing for the 1st respondent submits that the averments in the affidavit are true and correct to the best of his knowledge and belief and according to his instruction, the de facto complainant is not interested to prosecute the petitioner. Hence, all further proceedings in the matter referred to above can be quashed.

6. When all the matrimonial disputes have been settled between the parties and as the defacto complainant has no complaints against the petitioner, it is only just and

expedient in the interest of justice to quash the proceedings referred to above.

In the result, this Crl.M.C. is allowed and Annexure-III Final Report in Crime No No.550/13 of the Chevayur Police Station, and all further proceedings based on it in C.C.No.595 of 2015, pending before the Judicial First Class Magistrate's Court-I, Kozhikode, are hereby quashed.

Sd/-
K.HARILAL,
JUDGE.

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