

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

FRIDAY, THE 26TH DAY OF JUNE 2015/5TH ASHADHA, 1937201

Crl.MC.No. 3595 of 2015 ()

**AGAINST THE JUDGMENT IN S.C.NO.820/2014 of PRINCIPAL SESSIONS COURT,
PALAKKAD
CRIME NO. 496/2014 OF KOZHINJAMPARA POLICE STATION, PALAKKAD**

PETITIONER(S)/ACCUSED:

**ALIMUTHU, AGED 39 YEARS,
S/O UMMER, POLLACHI ROAD, CHALLAPATHA,
KOZHINJAMPARA, CHITTOOR TALUK, PALAKKAD DISTRICT.**

BY ADV. SRI.N.P.PRAJEESH

RESPONDENT(S)/STATE/DEFACTO COMPLAINANT & CWS-2 &3:

- 1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM - 682 031**
- 2. AJMAL RAFAZ, AGED 13,
S/O BASHEER, CHALLAPATHA, KOZHINJAMPARA,
CHITTUR TALUK, PALAKKAD DISTRICT
REPRESENTED BY HIS FATHER & NATURAL GUARDIAN,
SRI. BASHEER, AGED 36 YEARS, S/O MOHAMMED RAWTHER, CHALLAPARA,
KOZHINJAMPARA, CHITTUR TALUK, PALAKKAD DISTRICT.**
- 3. BASHEER, AGED 36 YEARS,
S/O MOHAMMED RAWTHER, CHALLAPATHA, KOZHINJAMPARA,
CHITTUR TALUK, PALAKKAD DISTRICT.**
- 4. SAPHIYA, AGED 34 YEARS,
W/O. BASHEER, CHALLAPATHA, KOZHINJAMPARA,
CHITTUR TALUK, PALAKKAD DISTRICT.**

**R2-R4 BY ADV. SRI.TONY AUGUSTINE
R1 BY PUBLIC PROSECUTOR SRI.GITHESH**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 26-06-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.MC.No. 3595 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

**ANNEXURE A PHOTOCOPY OF THE F.I STATEMENT GIVEN BY THE 2ND RESPONDENT
IN CRIME NO.496/2014 OF KOZHINJAMPARA POLICE STATION**

**ANNEXURE B PHOTOCOPY OF THE FINAL REPORT IN CRIME NO.496/2014
OF KOZHINJAMPARA POLICE STATION , WHICH IS NOW
PENDING AS S.C.NO 820/14 ON THE FILE OF THE PRL. SESSIONS COURT,
PALAKKAD**

**ANEXURE C ORIGINAL OF THE AFFIDAVIT SWORN BY THE 3RD RESPONDENT HEREIN,
FOR AND ON BEHALF OF THE 2ND RESPONDENT HEREIN, DATED
25/4/2015**

**ANNEXURE D ORIGINAL OF THE AFFIDAVIT SWORN BY THE 3RD RESPONDENT HEREIN,
DATED 25/4/2015**

**ANNEXURE E ORIGINAL OF THE AFFIDAVIT SWORN BY THE 4TH RESPONDENT HEREIN,
DATED 25/4/2015**

RESPONDENT(S)' EXHIBITS

NIL

//True Copy//

P.A. To Judge

Bb

RAJA VIJAYARAGHAVAN V, J.

Crl.M.C.No.3595 of 2015

Dated this the 26th day of June, 2015

ORDER

This petition is filed under Section 482 of the Code of Criminal Procedure.

2. The petitioner is the accused in S.C.No.820/2014 on the file of the Principal Sessions Court, Palakkad. This case had arisen from Crime No.496/2014 of Kozhinjampara Police Station and has been charged for offence punishable under Sections 324 of Indian Penal Code and Section 23 of the Juvenile Justice Act.

3. The prayer in this Criminal Miscellaneous Case is to quash Annexure-B final report and all further proceedings against the petitioner in S.C.No 820/2014 on the file of the Principal Sessions Court, Palakkad invoking the extraordinary inherent powers of this Court under Section 482 of the Code.

4. The gist of the allegation is that, on 15.06.2014 at about 8.30 a.m., the accused who is working as 'Usthad' in a Madrassa at Challapatha, beat the de facto complainant, who is a minor, by using a stick since he did not appear for the

examination conducted by the Madrassa.

5. The respondents 3 and 4 are the parents of the second respondent minor. It is submitted that the matter has been settled by the parties *inter se*. Respondents No.3 and 4 have appeared through counsel. The 3rd respondent - father of 2nd respondent has filed affidavits for and on behalf of his minor child and for himself swearing that the matter has been settled and that he does not wish that the criminal proceedings as against the petitioner should continue. The same tenor is repeated in the affidavit filed by the 4th respondent who is the mother of the 2nd respondent.

6. I have heard the learned counsel for the petitioner, the learned counsel for respondents 3 and 4 and also the learned Public Prosecutor.

7. The learned counsel appearing for respondents 3 and 4 has submitted that the assertions made by the parents in the affidavit are true and correct. He has submitted that the petitioner was the teacher of the 2nd respondent and he was caned for indiscipline. He submitted that if the criminal proceedings are permitted to continue, it would lead to discord and that the minor child is distressed that his teacher is facing

criminal proceedings owing to his complaint.

8. I have anxiously gone through the relevant records and also the affidavit filed by the defacto complainant. I am convinced that the offences are entirely personal in nature and, therefore, do not affect public peace or tranquility. It has been held by the Apex Court, that the high court, while exercising powers under Section 482 will be justified in quashing cases involving even non-compoundable offences if the disputes are really private in nature and no public interests are involved provided that the offenses are not of the gravely objectionable variety. I am convinced that the extraordinary powers under Section 482 can be invoked as the case falls within the matrix of guidelines laid down by the Apex Court in **Gian Singh v. State of Punjab (2012 (4) KLT 108) and Narinder Singh and others v. State of Punjab and anr. reported in (2014) 6 SCC 466**) and other cases. It is also felt that quashing of the instant proceedings would bring about peace and secure ends of justice. No purpose will be served in subjecting the parties to the ordeal of a protracted trial in view of the settlement. It will only enure to waste valuable judicial hours.

9. I am therefore of the view that the criminal

proceedings pending as against the petitioner can be quashed by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure.

In the result, this Crl.M.C. is allowed, and Annexure-B final report in S.C.No.820 of 2014 on the file of the Principal Sessions Court, Palakkad and all further proceedings in the said case are quashed.

Sd/-
RAJA VIJAYARAGHAVAN V, JUDGE.

Bb

[True copy]

P.A to Judge