

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

MONDAY, THE 29TH DAY OF JUNE 2015/8TH ASHADHA, 1937

Crl.MC.No. 3681 of 2015

C.C.NO. 02/2015 OF JUDICIAL FIRST CLASS MAGISTRATE COURT - II, PERAMBRA

PETITIONER(S)/ACCUSED :

**SHOUKKATHALI, AGED 35 YEARS,
S/O.IBRAHIM, KUYYODIYIL HOUSE, IYYAD AMSOM DESOM,
KOZHIKODE.**

BY ADV. SRI.NIDHI BALACHANDRAN

RESPONDENT(S)/RESPONDENTS :

- 1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, PIN- 682 035.**
- 2. SEENATH, AGED 28 YEARS,
D/O.MUHAMMED KOYA, PILAVULLATHIL, UNNIKULAM AMSOM DESOM,
KOYILANDY TALUK, KOZHIKODE- 673 584.**

**R1 BY PUBLIC PROSECUTOR SMT.LISHA M.G.
R2 BY ADV. SRI.SABU GEORGE**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 29-06-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' ANNEXURES :

**ANNEXURE A1: TRUE COPY OF THE ORDER DATED 31/12/2014 IN
MC 31/2014 OF THE JUDICIAL FIRST CLASS MAGISTRATE
COURT- II, PERAMBRA.**

**ANNEXURE A2: TRUE COPY OF THE JUDGMENT DATED 01/01/2015 IN
CC 663/2014 ON THE FILE OF THE JUDICIAL FIRST CLASS
MAGISTRATE COURT II, PERAMBRA.**

ANNEXRUE A3: THE AFFIDAVIT SWORN BY THE 2ND RESPONDENT.

RESPONDENT(S)' ANNEXURES :

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msd.

RAJA VIJAYARAGHAVAN.V. J

Crl.M.C. 3681 of 2015

Dated 29th June, 2015

ORDER

- 1.This petition is filed under Section 482 of the Code of Criminal Procedure.
- 2.The petitioner herein is the accused in C.C.No.2 of 2015 on the files of the Judicial First Class Magistrate Court-II, Perambra. The case is registered under Sections 498A, 406, 323, 324 and 506(1) r/w Section 34 of the IPC and Section 31 of the Protection of Woman from Domestic Violence Act, 2005.
- 3.The prayer in this Criminal Miscellaneous Case is to quash all further proceedings in C.C.No.2 of 2015 on the file of the said Court by invoking the extraordinary powers of this Court under S 482 of the Code..
- 4.The 2nd respondent in this case is the wife of the

petitioner. It is stated that the matter has been settled between the parties. It is seen that, originally the 2nd respondent had filed M.C.31 of 2014 and also got registered Crime No.158 of 2014 of Balussery police station against the petitioner herein and his mother. Later, the disputes between the parties were settled amicably and M.C.No.31 of 2014 was, on its basis, dismissed as not pressed. The petitioner has produced the copy of the order dated 31.12.2014 in M.C.31 of 2014. Thereafter, the proceedings against the 2nd accused, who is the mother of the petitioner herein, was proceeded by the learned Magistrate in C.C.663 of 2014 and as per judgment dated 1.1.2015, the mother was acquitted under Section 248(1) of the Cr.P.C., and as the petitioner did not face trial , the case against the him was re-filed as C.C.No.2 of 2015. The learned counsel for the petitioner also produced copy of the order in C.C. No.663 of 2014 which reveals that the matter has been settled and that she does not intend to

proceed against the accused in Crime No.158 of 2014 of Balussery police station. In addition, the 2nd respondent has appeared through counsel and she has also filed an affidavit before this Court in which she has sworn that she does not wish to continue the criminal proceedings against the petitioner any further.

5. Heard the learned counsel for the petitioner, the learned counsel appearing for the 2nd respondent and also the learned Public Prosecutor.

6. 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 S 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 S 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.

7.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 S. 482 of the Code of Criminal Procedure.

8.In the result, this Crl.M.C is allowed. All further proceeding in C.C. 2 of 2015 on the files of the Judicial First Class Magistrate Court-II, Perambra are quashed.

SD/-
RAJA VIJAYARAGHAVAN.V.
Judge

MrCs

//True Copy//