

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

WEDNESDAY, THE 15TH DAY OF JULY 2015/24TH ASHADHA, 1937

CrI.MC.No. 4420 of 2015 ()

LP 103/2005 of J.M.F.C.-I, CHENGANNUR
CRIME NO. 506/2002 OF CHENGANNUR POLICE STATION , ALAPPUZHA

PETITIONER(S):

ARAVINDAKSHA KAIMAL AGED 44 YEARS
S/O KARUNAKARAN PILLAI, MELIYIL HOUSE,
THIRUVANVANDOOOR MURI, THIRUVANVANDOOOR VILLAGE,
CHENGANNUR TALUK, ALAPPUZHA DIST.

BY ADV. SRI.AJITH MURALI

RESPONDENT(S):

1. STATE OF KERALA, REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, EKM-682031

2. SUNIL, AGED 38 YEARS, S/O SREEDHARANUNNI,
KIZEKEDATHU VEETIL THIRUVANVANDOOOR MURI,
THIRUVANVANDOOOR VILLAGE, CHENGANNUR TALUK,
ALAPPUZHA DIST.

3. GIREESH KUMAR, AGED 37 YEARS, S/O NARAYANAPILLA,
PUTHYARA VEETIL, VANAVATHIKKARA MURI,
THIRUVANVANDOOOR VILLAGE, CHENGANNUR TALUK-689121
ALAPPUZHA DISTRICT.

R2 & 3 BY ADV. SRI.P.V.DILEEP
BY PUBLIC PROSECUTOR SRI. GITHESH

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
15-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CrI.MC.No. 4420 of 2015 ()

APPENDIX

ANNEXURES

A- A CERTIFIED COPY OF THE CHARGE SHEET IN CRIME NO.506 OF 2002 OF CHENGANNUR POLICE STATION

B- THE CERTIFIED COPY OF THE ORDER IN C.C.NO.547 OF 2002 PASSED BY JUDICIAL FIRST CLASS MAGISTRATE COURT, CHENGANNUR

C- THE CERTIFIED COPY OF THE ORDER IN C.C.1069 2014 PASSED BY JUDICIAL FIRST CLASS MAGISTRATE COURT, CHENGANNUR

TRUE COPY

P.S TO JUDGE

RAJA VIJAYARAGHAVAN.V. J

Crl.M.C. 4420 of 2015

Dated 15th July, 2015

ORDER

1. The petitioner herein is the 1st accused in C.C.No.547 of 2002 on the files of the Judicial Magistrate of First Class-I, Chengannur.

2. Since the petitioner did not appear before the Court below and face the trial, proceedings as against him was split up and the case against him is pending as L.P.103 of 2005 on the files of the said court.

3. I have heard the learned counsel for the petitioner , the learned Counsel for the respondents 2 and 3 and the learned Public Prosecutor.

4. It is submitted that, as against the 3rd accused, the learned Magistrate had proceeded with the trial and as per Annexure B judgment dated 16.6.2005 in CC No 547

of 2002, it was held that the prosecution has not succeeded in proving the guilt of the accused. Holding so, the accused was acquitted under S.255(1) of the Cr.P.C. Later, as per Annexure-C order dated 6.6.2014 in C.C.1069 of 2014, the case as against the 3rd accused was compounded and the accused was acquitted u/s 320(8) of the Cr.P.C. It is the submission of the learned counsel that in view of Annexure-B and C, the substratum of the case as against the petitioner has been destroyed and it would result in travesty of justice to direct the petitioner to undergo the ordeal of a protracted trial.

5. It is submitted that after the acquittal of the 2nd and 3rd accused, there were mediation talks at the instance of well wishers and the matter has been settled .It was submitted by the counsel for the respondents 2 and 3 that separate affidavits have been filed asserting that they are not inclined to proceed with the matter as against the petitioner herein.

6. I have anxiously gone through the judgment rendered by the learned Magistrate . After evaluating the evidence in detail, the learned magistrate has held that the evidence let in by PW1 and PW2 was inconsistent and contradictory in various aspects and no reliance could be placed on the same. It was on the basis of the said finding that the accused No 2 was acquitted. As per Anneuxre-C order case against accused No. 3 has been compounded . In **Moosa v. Sub Inspector of Police (2006 (1) KLT 552)** and also **Ashraf Kancheriyil v. State of Kerala (2011 (2) KHC 812)** it has been held that when substratum of the case is destroyed, there is no point in pursuing with the prosecution as against the other accused.

7. In the instant case, the injured witness and the de facto complainant have filed separate affidavits asserting that they have entered into an amicable settlement with the petitioner and they do not wish to proceed with the criminal prosecution. The counsel who entered appearance for and on behalf of respondents 2 and 3

have also asserted that the assertions in the affidavit are true.

8. After hearing the counsel for the petitioner and also the learned Public prosecutor and the learned counsel for the respondents 1 and 2, I am of the considered opinion that this is one of those exceptional cases where prayer for invocation of the extraordinary inherent jurisdiction can be justifiably invoked to serve the ends of justice. The bona fides of the petitioner in approaching this Court with the prayer cannot be doubted as the substratum of the case has been destroyed. 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 offence 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.

9. It is also felt that quashing of the instant proceeding 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. 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.

10. In the result, this Crl.M.C. is allowed. L.P.No.103 of 2005 on the files of the Judicial Magistrate of First Class-I, Chengannur is hereby quashed.

SD/-

RAJA VIJAYARAGHAVAN.V.
Judge

MrCs

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