

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

FRIDAY, THE 10TH DAY OF JULY 2015/19TH ASHADHA, 1937

CrI.MC.No. 4061 of 2014 ()

CC 230/2010 of J.M.F.C.-III, THRISSUR
CRIME NO. 180/2009 OF OLLUR POLICE STATION , THRISSUR

PETITIONER(S)/PETITIONER:

1. RADHA AGED 72 YEARS
W/O.LATE KUMARAN, KALLADATHIL HOUSE, CHERUKUNNU DESOM
PUTHUR VILLAGE, THRISSUR DISTRICT

2. K K SATHEESAN
S/O.LATE KUMARAN, KALLADATHIL HOUSE, CHERUKUNNU DESOM
PUTHUR VILLAGE, THRISSUR DISTRICT

3. K K SREEJAYA
S/O.LATE KUMARAN, KALLADATHIL HOUSE, CHERUKUNNU DESOM
PUTHUR VILLAGE, THRISSUR DISTRICT

4. PRADEEP KUMAR
S/O.LATE KUMARAN, KALLADATHIL HOUSE, CHERUKUNNU DESOM
PUTHUR VILLAGE, THRISSUR DISTRICT

5. SREEDEVI
D/O.LATE KUMARAN, KALLADATHIL HOUSE, CHERUKUNNU DESOM
PUTHUR VILLAGE, THRISSUR DISTRICT

6. MANOJ KUMAR
S/O.LATE KUMARAN, KALLADATHIL HOUSE, CHERUKUNNU DESOM
PUTHUR VILLAGE, THRISSUR DISTRICT

BY ADVS.SRI.P.K.SAJEEV
SRI.P.P.HARRIS

RESPONDENT/COMPLAINANT & DEFACTO COMPLAINANT:

1. STATE OF KERALA
REP BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA

2. THRISSUR DISTRICT CO-OPERATIVE BANK
LTD NO 60, KOVILAKATHUMPADAM, THRISSUR
REP BY ITS GENERAL MANAGER

BY ADV. SRI.C.A.MAJEED, SC, THRISSUR DISTRICT CO.OP. BANK
BY PUBLIC PROSECUTOR SRI. JIBU P. THOMAS

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 10-
07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CrI.MC.No. 4061 of 2014 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEX A1:-TRUE COPY OF THE COMPLAINT IN CMP 627/2009 ON THE FILES
OF JUDICIAL IST CLASS MAGISTRATE COURT III

ANNEX A2:-TRUE COPY OF THE FIRST INFORMATION REPORT DTD 16/3/2009
IN CRIME NO 180/2009 OLLUR POLICE STATION, THRISSUR DIST

ANNEX A3:-CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO 180/2009
OF THE OLLUR POLICE STATION, THRISSUR DIST

ANNEX A4:-TRUE COPY OF THE CERTIFICATE DTD 16/9/2011 ISSUED BY THE
2ND RESPONDENT

true copy

P.S To Judge

RAJA VIJAYARAGHAVAN.V. J

Crl.M.C. 4061 of 2014

Dated 10th July, 2015

ORDER

1. This petition under S.482 of the Code of Criminal Procedure (for short “the Code”) is preferred by the petitioners who are accused Nos.1 to 6 in Crime No.180 of 2009 of Ollur police station, Thrissur, which is now pending as C.C.No.230 of 2010 on the files of the Judicial First Class Magistrate Court-III, Thrissur.

2. The prayer in this case is to quash all further proceedings in C.C.230 of 2010 on the files of the said Court on the ground that the disputes between the petitioner and the respondents have been fully and finally settled. The case arose on the basis of a private complaint filed by the 2nd respondent, the Thrissur District Co-operative Bank Ltd.No.60, Kovilakathumpadam, Thrissur, represented by its General Manager. The allegation in the complaint is that the 1st

petitioner availed a business Overdraft facility of Rs.5,00,000/- by providing 12 cents of property jointly owned by the petitioners as security by suppressing the fact that the said property was mortgaged by them with another Bank for availing money. The said complaint was forwarded by the learned Magistrate to the Ollur police station for investigation based on which the said crime was registered. Later, after investigation, a final report was laid and the learned Magistrate has taken cognizance of the offence and the said case is pending as C.C.No.230 of 2010.

3. I have heard the learned counsel for the petitioner as well as the learned counsel for the 2nd respondent Bank.

4. It is submitted by the learned counsel for the 2nd respondent that the matter has been fully and finally settled and they do not wish that the criminal proceedings as against the petitioner should continue. The attention of the Court was also invited to Annexure-A4 certificate issued by the 2nd respondent in which it is mentioned that

all the liability which stood in the name of the 1st petitioner and others has been settled in terms of Ashwas-2011. A report was also called for from the Judicial Magistrate of First Class-III, Thrissur, in which the learned Magistrate has reported that it has been recorded in the proceedings sheet itself that on 28.10.2013 the matter was settled. The learned counsel for the 2nd respondent has also produced Annexure-A5 which is the joint petition filed by the petitioners as well as the 2nd respondent before the Judicial Magistrate of First Class-III, Thrissur, recording the fact that the matter involved in the said case has been settled out of Court. It has also been prayed that the settlement be recorded and the case be struck off the file. It is owing to the fact that the non cognizable offences were also included, that the matter could not be compounded by the learned Magistrate. The learned counsel for the petitioner has also produced Annexure-A6 which is the order sheet of the Judicial First Class Magistrate Court-III, Thrissur, in which also it has been recorded that on 28.10.2013, the matter has been settled.

5. I am convinced that the offences are entirely personal in nature and no purpose will be served in subjecting the parties to the ordeal of a protracted trial in view of the settlement arrived at between the parties as evidenced by Annexures A4, A5 and A6. I am therefore, of the considered view that the criminal proceedings pending as against the petitioners can be quashed by invoking the inherent powers of this Court under S.482 of the Code.

6. In the result, Crl.M.C is allowed. All further proceedings in C.C.No.230 of 2010 on the files of the Judicial First Class Magistrate Court-III, Thrissur, is hereby quashed.

Sd/-
RAJA VIJAYARAGHAVAN.V.
Judge

Mrcs

//True Copy//

P.S To judge