

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

WEDNESDAY, THE 23RD DAY OF SEPTEMBER 2015/1ST ASWINA, 1937

Cr1.MC.No. 6076 of 2015 ()

AGAINST THE ORDER/JUDGMENT IN CC 247/2014 of J.M.F.C.-II
(FOREST OFFENCES), MANJERI in
CRIME NO. 948/2011 OF KONDOTTY POLICE STATION, MALAPPURAM

PETITIONER(S)/ACCUSED NUMBERS 1 TO 5:

1. THASLEENA,
D/O.ABDUL LATHEEF, PALATTUKUZHIYIL HOUSE,
MALAYIL MUKKU, MUTHUPARAMBU.
2. ABDUL LATHEEF,
S/O.MUHAMMAD, THAMARASSERI HOUSE, THURAKKAL,
KONDOTTY.
3. NAFEESA,
W/O.ABDUL LATHEEF, ERANHIKKAL HOUSE, THURAKKAL,
KONDOTTY.
4. NASREENA,
D/O.ABDUL LATHEEF, THAMARASSERI HOUSE, THURAKKAL,
KONDOTTY.
5. BILAWAL RAHEES,
S/O.ABDUL LATHEEF, MUTHU NIVAS, THURAKKAL,
KONDOTTY.

BY ADV. SRI.DEVAPRASANTH.P.J.

RESPONDENT(S)/DEFACTO COMPLAINANT/STATE OF KERALA:

1. K.K.MUBASHIRA,
W/O.ABDULLA HAJI, PALATTUKUZHIYAN HOUSE, MUTHUPARAMBA,
MUTHUVALLUR AMSOM, MALAPPURAM DISTRICT, PIN 673 603.
2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
REPRESENTED BY SHO OF KONDOTTY POLICE STATION,
PIN-682 031

R1 BY ADV. SRI.C.JOSEPH JOHNY

R2 BY PUBLIC PROSECUTOR SMT. SAREENA P. GEORGE

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
23-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

:2:

Cr1.MC.No. 6076 of 2015 ()

APPENDIX

PETITIONER(S) ' EXHIBITS

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ANNEXURE I: CERTIFIED COPY OF THE COMPLAINT DATED 05.12.2011 FILED
BY THE FIRST RESPONDENT.

ANNEXURE II: CERTIFIED COPY OF THE FIR DATED 06.12.2011 FILED BY
FIRST RESPONDENT IN CRIME NO.948/2011.

ANNEXURE III: CERTIFIED COPY OF THE FINAL REPORT DATED 16.02.2012
FILED BY FIRST RESPONDENT IN CRIME NO.948/2011.

ANNEXURE IV: AGREEMENT DATED 22.05.2012 EXECUTED BETWEEN THE
PETITIONERS AND THE FIRST RESPONDENT.

ANNEXURE V: AFFIDAVIT DATED 22.05.2012 EXECUTED BY THE FIRST
RESPONDENT.

RESPONDENT(S) ' EXHIBITS

:

NIL

// True Copy//

P.A. to Judge

SS

K. RAMAKRISHNAN, J.

Crl. M.C.No.6076 of 2015

Dated this the 23rd day of September, 2015

ORDER

Accused Nos. 1 to 5 in C.C.No.247/2014 on the file of the Judicial First Class Magistrate Court-II(Forest Offences), Manjeri, to quash the proceedings on the basis of the settlement under Section 482 of the Code of Criminal Procedure.

2. It was alleged in the petition that, the parties are close relatives related by marriage and on account of the misunderstanding, there was some incident occurred and on the basis of the statement given by the 2nd respondent crime No.948/2011 of Kondotty police station was registered evidenced by Annexure-2 document, against the first accused, her parents and 20 others alleging offences under Section 452, 427, 506(ii) read with Section 34 of the Indian Penal Code.

3. After investigation Annexure-3 final report was filed against the petitioners alone alleging offence under Section 452, 427 and 506(ii) read with Section 34 of the Indian Penal Code before the Judicial First Class Magistrate Court, Malappuram, where it was taken on file as C.C.No.524/2012 and thereafter it was made over to Judicial First Class Magistrate Court-II, (Forest Offences), Manjeri, as per orders of the Chief Judicial Magistrate, where it was re-numbered as C.C.No.247/2014. Now the matter has been settled between the parties due to the intervention of well-wishers and family relationship has been restored. On account of the settlement there is no possibility of conviction. Since some of the offences are non-compoundable in nature, they could not file a application before the court below. So the petitioners have no other remedy expect to approach this court seeking the following reliefs:

“This Hon'ble court may be pleased to quash the

proceedings in C.C.No.247/2014 including Annexure-I complaint and Annexure III final report against the petitioners pending before the Ho'ble JFCM-II(Forest Offences), Manjeri."

4. First respondent appeared through counsel and submitted that they are close relatives and on account of the settlement, the family relationship has been restored and they do not want to prosecute the case and she had filed an affidavit stating these facts. The counsel for the petitioner also submitted that, on account of the settlement, there is no possibility of conviction, he prayed for allowing the application.

5. On the other hand, learned Public Prosecutor Smt.Sareena P. George appearing for the State submitted that, it is not a matter to be quashed under Section 482 of the Code of Criminal Procedure.

6. It is an admitted fact that the petitioners and first respondent are close relatives by marriage. It is also an admitted fact that on the basis of the statement given by

the first respondent Annexure-2 crime was registered and after investigation, Annexure-3 final report was filed and now it is pending as C.C.No.247/2014 before the Judicial First Class Magistrate Court-II(Forest Offences), Manjeri. It is seen from Annexure-4 and 5 affidavits that the matter has been settled between the parties and their relationship has been restored due to the intervention of both the family members and they have decided to unite together and the strained relationship between the spouses involved in this case also resolved and they also started residing together. So on account of the settlement there is no possibility of conviction as neither the defacto-complainant nor her witnesses will support the case of the prosecution.

7. Further in the decision reported in **Gian Singh v. State of Punjab [2012(4) KLT 108 (SC)]**, it has been held that:

“In the case of family disputes arising between the spouses or family members and the dispute is settled between the parties on account of the intervention of mediators and they wanted to have harmony, then court

must honour such settlement and even if non-compoundable offence have been alleged, court must invoke the power under Section 482 of the Code of Criminal Procedure to quash the proceedings to promote settlement in family disputes”.

8. In which the dictum laid down in the above decision and also considering the fact that it is a dispute between the family members and the matter has been settled between the parties due to the intervention of well-wishers of both the parties and on account of the settlement reunion happened among the spouses and family relationship has been restored and there is no possibility of conviction and continuing the case will only result in wastage of judicial time, this court feels that it is a fit case where the power under Section 482 of the Code of Criminal procedure has to be invoked to quash the proceedings, so as to promote the settlement and restoration of harmony in the family relationship and the pendency of this case should not be a hurdle for the same.

So the petition is allowed and further proceedings

in C.C.No.247/2014 (Crime No.948/2011 of Kondotty police station), pending before the Judicial First Class Magistrate Court-II(Forest Offences) Manjeri, as against the petitioner is hereby quashed.

Office is directed to communicate this order to the concerned court immediately.

Sd/-
K. Ramakrishnan, Judge

// True Copy//

P.A. to Judge

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