

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

TUESDAY, THE 22ND DAY OF SEPTEMBER 2015/31ST BHADRA, 1937

Crl.MC.No. 6144 of 2015 ()

CC. NO.42/2015 OF CHIEF JUDICIAL MAGISTRATE COURT, PALAKKAD.

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PETITIONERS/ACCUSED 1 TO 3:

1. RASOOL MUTHU @ CHINNA,
S/O.SANDH MOHAMMED, KULATHUNADU,
PUTHUNAGARAM, PALAKKAD.
2. ABOOBACKER, S/O.HASSAN MOHAMMED,
RAHMATH MANZIL, KULANTHUKADU,
PALAKKAD.
3. HAKKIM, S/O.HASSAN MOHAMMED,
NENDRAPALAM, NANDIYODU P.O.,
PALAKKAD.

BY ADV. SRI.M.L.SURESH KUMAR.

RESPONDENTS/STATE/DEFACTO COMPLAINANT:

1. STATE OF KERALA,
REP.BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.
2. ABDUL AZI, S/O.CHELLAPPA RAWTHER,
MANKAVUKALAM HOUSE, THANDAVU,
KINASSERI P.O., PALAKKAD DISTRICT-678 701.

R1 BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE.
R2 BY ADV. SRI.A.R.GANGADAS

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 22-09-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S ANNEXURES:-

**ANNEXURE A COPY OF THE FINAL REPORT WITH WOUND CERTIFICATE
IN CRIME NO.1861/2014 IN C.C.42/2015 OF CHIEF JUDICIAL
MAGISTRATE, PALAKKAD.**

ANNEXURE B COPY OF THE AFFIDAVIT FILED BY THE 2ND RESPONDENT.

RESPONDENT'S ANNEXURES:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

K.RAMAKRISHNAN, J.

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Crl.M.C.No.6144 of 2015

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Dated this the 22nd day of September, 2015

ORDER

Accused Nos.1 to 3 in C.C.No.42/2015 on the files of the Chief Judicial Magistrate's Court, Palakkad, filed this application for quashing the proceedings on the basis of settlement under Section 482 of the Code of Criminal Procedure (for short 'the Code').

2. It is alleged in the petition that the petitioners and the de facto complainant are close relatives and they are the brother-in-laws of the de facto complainant. Due to some family disputes, some incident occurred, in which, the de facto complainant sustained injuries and on the basis of the statement given by him, Crime No.1861/2014 of Palakkad Town South Police Station was registered alleging offences under Sections 452, 341, 323, 324, 326 and 506(i) read with Section 34 of Indian Penal Code against the

petitioners.

3. After investigation, Annexure A final report has been filed before the Chief Judicial Magistrate's Court, Palakkad and it was taken on file as C.C.No.42/2015 and it is pending before that court. Due to the intervention of the well wishers and family members, the matter has been settled between the parties and their old relationship has been restored. The de facto complainant does not want to prosecute the case on account of the settlement. Since some of the offences are non-compoundable in nature, they could not approach the court below for this purpose. No purpose would be served by keeping the case on file as well on account of the settlement and conviction in such case is remoted. So they have no other remedy except to approach this Court seeking the following relief:

Quash the proceedings pending against the petitioner as in C.C.No.42/2015 of Chief Judicial Magistrate, Palakkad.

4. The 2nd respondent appeared through counsel and

submitted that the matter has been settled between the parties and they are relatives and on account of the settlement, family relationship has been restored and harmony has been brought back in the family and he does not want to prosecute the petitioners, who are his brother-in-laws and he has filed an affidavit stating that fact. The learned counsel for the petitioners also submitted that on account of the settlement, no purpose would be served by proceeding the case. He also prayed for allowing the application.

5. The learned Public Prosecutor submitted that there is no case against the petitioners and since grave offences have been incorporated, it cannot be quashed invoking Section 482 of the Code.

6. It is an admitted fact that petitioners and the 2nd respondent are relatives and on the basis of the statement given by the 2nd respondent, the de facto complainant, in respect of the incident occurred between them on

17.12.2014, Crime No.1861/2014 of Palakkad Town South Police Station was registered alleging offences under Sections 452, 341, 323, 324, 326 and 506(1) read with Section 34 of Indian Penal Code. After investigation, Annexure A final report has been filed and it was taken on file as C.C.No.42/2015 on the files of the Chief Judicial Magistrate's Court, Palakkad. Now, the matter has been settled between the parties. It is also mentioned in the affidavit filed by the 2nd respondent that they are close relatives namely, brother-in-laws and due to the intervention of the well wishers of both parties, the matter has been settled and the family relationship has been restored between them and harmony has been brought back in the family relationship and he does not want to prosecute the case. In view of the settlement, there is no possibility of any conviction as neither the de facto complainant nor his 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], the Supreme Court has held that in cases where the family relationships are involved and the matter has been settled between the parties and the family relationship has been restored on account of settlement, the court can invoke the power under Section 482 of the Code to quash the proceedings though non-compoundable offences are incorporated in order to promote the settlement and restoration of harmony in the family.

8. In view of the dictum laid down in the above case, and considering the fact that the de facto complainant and the petitioners are relatives and the matter has been settled between them on account of the intervention of the well wishers of both parties and on account of the settlement, their family relationship has been restored and there is no possibility of conviction and proceeding the case will only amount to wastage of judicial time, this Court is of the view that this is a fit case where the power under Section 482 of

the Code has to be invoked to quash the proceedings so as to promote the settlement and restoration of family relationship.

In the result, this Crl.M.C is allowed and further proceedings in C.C.No.42/2015 (Crime No.1861/2014 of Palakkad Town South Police Station) on the files of the Chief Judicial Magistrate's Court, Palakkad as against the petitioners, is hereby quashed. Office is directed to communicate this order to the concerned court immediately.

Sd/-
K.RAMAKRISHNAN,
JUDGE.

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