

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

CrI.MC.No. 6173 of 2015 ()

**CC.NO. 890/2014 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, PAYYANNUR
CRIME NO. 63/2014 OF PAZHAYANGADI POLICE STATION , KANNUR DISTRICT**

PETITIONER(S)/PETITIONERS/ACCUSED NO.1 TO 8:-

1. MUJEEB M.K., AGED 30 YEARS,
S/O.KUNHAHAMMED, MYLANJIKKAL (H), MADAYI AMSOM,
MUTTAM, MADAYI P.O., KANNUR DISTRICT.
2. NISAR M.K., AGED 26 YEARS,,
S/O.ABDUL SALAM, MYLANJIKKAL (H), MADAYI AMSOM,
MUTTAM, MADAYI P.O., KANNUR DISTRICT.
3. AMEER K., AGED 27 YEARS,
S/O.MOIDEEN, KOVVAPPURATH (H), KAKKADAPPURAM,
MADAYI AMSOM, MADAYI P.O., KANNUR DISTRICT.
4. MAHABOOB M.K., AGED 28 YEARS,
S/O.MUHAMMED KUNHI, MYLANJIKKAL (H), KAKKADAPPURAM,
MADAYI AMSOM, MADAYI P.O., KANNUR DISTRICT.
5. BASHEER E.V., AGED 30 YEARS,
S/O.ABDUL AZEEZ, ITTAPPURATH VADAKKEPURAYIL (H),
MADAYI AMSOM, MUTTAM, MADAYI P.O.,
KANNUR DISTRICT.
6. RAFEEQ S.H., AGED 29 YEARS,
S/O.BASHA, SAITHUMADAKATH CHUTHATHINTAVIDA (H),
KAKKADAPPURAM, MADAYI AMSOM, MADAYI P.O.,
KANNUR DISTRICT.
7. MUHAMMED SHAFI, AGED 21 YEARS,
S/O.UMMERKUTTY, KUZHICHA KAKKADATHIL PUTHIYAPURAYIL (H),
MADAYI AMSOM, MUTTAM, MADAYI P.O., KANNUR DISTRICT.
8. ABDULLA K., AGED 30 YEARS, S/O.PAREETH,
KOVVAPPURATH (H), MADAYI AMSOM, MUTTAM,
MADAYI P.O., KANNUR DISTRICT.

BY ADV. SRI.ZUBAIR PULIKKOOL

CRL.M.C.NO.6173/2015

RESPONDENTS/COMPLAINANT:-

1. HAMEED P., AGED 63 YEARS,
S/O.IBRAHIM HAJI, PARIYANTAVIDA HOUSE, SECRETARY,
MUTTAM MUSLIM JUMA ATH COMMITTEE, ERIPRAM, MADAYI P.O.,
KANNUR DISTRICT, PIN - 670 354.
2. HAMEED K., AGED 44 YEARS,
S/O.KAMMU, KUNNANATH HOUSE, MANAPPURAM,
THACHANATTUKARA AMSOM, PALAKKAD DISTRICT,
PIN - 678 003.
3. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, PIN - 682 031.

R1 & R2 BY ADV. SRI.P.S.BINU
R3 BY PUBLIC PROSECUTOR SMT. HYMA

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

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Crl.MC.No. 6173 of 2015 ()

APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEX I. COPY OF THE FINAL REPORT IN CRIME NO.36/14 OF PAZHAYANGADI
POLICE STATION.**

ANNEX II. THE ORIGINAL COPY OF THE AFFIDAVIT OF 1ST RESPONDENT.

ANNEX III. THE ORIGINAL COPY OF THE AFFIDAVIT OF 2ND RESPONDENT.

RESPONDENT(S)' ANNEXURES: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

K.RAMAKRISHNAN, J.

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Cr.M.C. No.6173 OF 2015

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Dated this the 23rd day of September, 2015

ORDER

This is an application filed by the accused Nos. 1 to 8 in CC No.89/2014 on the file of the Judicial First Class Magistrate's Court Payyannur to quash the proceedings on the basis of settlement under Section 482 of the Code of Criminal Procedure (hereinafter referred to as the Code).

2. It is alleged in the petition that the petitioners were arrayed as accused Nos. 1 to 8 in Crime No.63/2014 of Pazhayangadi Police Station which was registered on the basis of statement given by the 1st respondent alleging offences under Sections 143, 147, 447, 506(I) read with 149 of the Code and Kerala Prevention of Disturbance of Public Meeting Act 1961 on the allegation that on 22.11.2013 when some religious meeting was going on in the Juma ath they trespassed in to the Jama ath and prevented the speech made by one of the religious leaders and threatened them and thereby they have committed the above said

offences.

3. After investigation, Annexure 1 final report was filed which was taken on file as CC No.890/2014 on the file of the Judicial First Class Magistrate's Court, Pazhayangadi. Now due to the intervention of well wishers of both parties and religious leaders the matter has been settled between the parties and religious harmony has been brought among the members of the community on account the settlement.

4. The defacto complainant and the office bearers of the community did not want to prosecute the case on account of the settlement. No conviction is possible as well in such circumstances. Since some of the offences are non-compoundable in nature, they could not file application before the court below. The petitioner has no other remedy except to approach this court seeking for the following relief:

“CrI.M.C. may be allowed and Annexure –1 Final report and all further proceedings in C.C.890/2014 on the file of the J.F.C.M. Court, Payyannur in Crime No.63/2014 of Pazhayangadi police station may kindly be quashed for the interest of justice.

5. Respondents 1 and 2 who are the defacto

complainant and affected party in the meeting appeared through counsel and submitted that due to the intervention of well wishers of both community leaders and the office bearers of Juma ath, the matter has been settled between the parties and religious harmony has been brought among the members of the community on account of the settlement and there will not be any future incident happen as well. They have filed affidavits stating these facts. The counsel for the petitioners has also submitted that in view of the settlement, there is no possibility of conviction and prayed for allowing the application.

6. Learned Public Prosecutor Smt. Hyma appearing for the State, 3rd respondent submitted that though there is no other case against the petitioners since it affects the religious harmony it is not a fit case to invoke the power under Section 482 of the Code to quash the proceedings.

7. It is an admitted fact that the petitioners and respondents 1 and 2 belong to Muslim Community and members of the same Juma ath. It is also an admitted fact that due to some difference of opinion among the members

of the community, when some religious function was going on in the Jama ath, some incident occurred and thereby the meeting was disturbed and on the basis of the settlement given by the 1st respondent the above crime was registered and after investigation, Annexure 1 final report was filed and is now pending before the Judicial First Class Magistrate Court Payyannur as C.C. No.819/2014. In the meantime in order to bring harmony among the members of the community, due to the intervention of religious leaders and office bearers of the Juma ath, the matter has been settled between the parties and they have come to an understanding that no such incident will happen in future.

8. On the basis of the settlement they have decided not to proceed against the petitioners. Though the provisions of Prevention of Disturbance of Public Meeting Act has been incorporated which is intended to prevent disturbance by miscreants of public meeting in the public interest, since it was an incident occurred due to misunderstanding of the two groups in the same religious group which was now resolved on account of the

understanding between the religious leaders and harmony has been brought among the members of the same community to promote brotherhood, they have decided not to proceed with the case, on account of the settlement, there is no possibility of conviction as neither the defacto complainant nor his witnesses will support the case of the prosecution. The defacto complainant and the affected persons whose speech was disturbed filed Annexure A2 and A3 affidavits stating that the matter has been settled between the parties and they do not want to prosecute the case on account of the settlement.

9. In the decision reported in *Gian Singh v State of Punjab* [2012 4 KLT 108] the Hon'ble Supreme Court has held that if the dispute is between the neighbours, friends and family members and there is no public interest involved and if on account of the settlement, harmony has been restored between the members, though there is non-compoundable offence incorporated, court can invoke the power under Section 482 of the Code to quash the proceedings to promote settlement and restoration of

harmony among the members of the society.

10. In view of the dictum laid down in the above decision and also considering the fact that it is an incident occurred among the members of the same community due to some misunderstanding which has been resolved between them on account of the intervention of well wishers as well as the religious leaders and both the parties have undertaken that no such incident will happen in future and harmony has been restored between the community people and no conviction will be possible in such cases and proceeding of the case will only amount to wastage of judicial time, this court feels that it is a fit case where the power under Section 482 of the Code to be invoked to quash the proceedings in order to promote the settlement and protect the harmony that has been restored between the community people and the pendency of this case should not be a hurdle for the same.

So the application is allowed and further proceedings in CC No.890/14 (Crime No.63/2014 of Pazhayangadi Police Station) on the file of the Judicial First Class Magistrate's

Court Payyannur as against the petitioner is hereby quashed.

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

Sd/-
K.RAMAKRISHNAN, JUDGE

SKV