

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. 6212 of 2015

**CC 696/2011 OF FIRST CLASS MAGISTRATE COURT-I, ATTINGAL.
CRIME NO. 119/2011 OF KADINAMKULAM POLICE STATION, THIRUVANANTHAPURAM.**
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PETITIONER(S)/ACCUSED NO 1&2:

- 1. MOHAMMED RAFEEQ, AGED 27 YEARS,
S/O ILIYAZ, VADAKKEVILAKONATHU VEEDU,
PUTHUKURICHI, KADINAMKULAM VILLAGE,
THIRUVANANTHAPURAM DISTRICT.**
- 2. ANZIL, AGED 28 YEARS, S/O BASHEER,
VADAKKEVILAKONATHU VEEDU, PUTHUKURICHI,
KADINAMKULAM VILLAGE,
THIRUVANANTHAPURAM DISTRICT.**

BY ADV. SRI.P.ANOOP (MULAVANA)

RESPONDENT(S)/STATE & DEFACTO COMPLAINANT:

- 1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.**
- 2. SULFIQUAR, AGED 27 YEARS, S/O AMANULLA,
VADAKKEVILAKONATHU VEEDU, NEHRU JUNCTION,
PUTHUKURICHI, KADINAMKULAM VILLAGE,
THIRUVANANTHAPURAM DISTRICT - 695 001.**

**R1 BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE
R2 BY ADV. SMT.V.VJITHA**

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

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APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEXURE A1: CERTIFIED COPY OF THE FINAL REPORT IN CC 696 /11 OF THE
JFCM-I, ATTINGAL, THIRUVANANTHAPURAM DISTRICT.**

ANNEXURE A2: AFFIDAVIT FILED BY THE 2ND RESPONDENT.

RESPONDENTS' ANNEXURES: NIL.

//TRUE COPY//

P.S. TO JUDGE

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K.RAMAKRISHNAN, J.

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Crl.M.C.No. 6212 of 2015

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Dated this the 22nd day of September, 2015

ORDER

This is an application filed by accused Nos.1 and 2 in C.C.No.696/2011 on the files of the Judicial First Class Magistrate's Court -I, Attingal to quash 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 are accused Nos.1 and 2 in Crime No.119/2011 of Kadinamkulam Police Station, Thiruvananthapuram District, which was registered on the basis of a statement given by the 2nd respondent as de facto complainant, alleging offences under Sections 341, 294(b), 324 and 34 of Indian Penal Code. After investigation, Annexure A1 final report has been filed and it was filed before the Judicial First Class Magistrate's Court-I, Attingal where it was taken on file as C.C No.696/2011 and pending before that court. The

petitioners are neighbours and friends. The matter has been now settled between the parties due to the intervention of well wishers of both parties. 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 an application for quashing the proceedings. So, the petitioners have no other remedy except to approach this Court seeking the following relief:

Quash Annexure A1, final report in CC 696/2011 of the Judicial First Class Magistrate Court-I, Attingal, Thiruvananthapuram District arising from Crime No.119/2011 of Kadinamkulam Police Station, Thiruvananthapuram District.

3. The 2nd respondent appeared through counsel and submitted that the matter has been settled between the parties and it was an incident occurred while they were playing cricket. Now, the relationship has been restored between them and he does not want to prosecute against them. He had filed an affidavit stating those facts. He had

no objection in allowing the application.

4. The learned counsel for the petitioners also submitted that in view of the settlement, there is no possibility of conviction. Further, the offence under Section 294(b) of the Indian Penal Code is not attracted.

5. Smt. Sareena George, the learned Public Prosecutor submitted that there is no other case against the petitioners that it is not a case where Section 482 of Code can be invoked to quash the proceedings.

6. It is an admitted fact that, on the fateful day, the petitioners and the de facto complainant were playing cricket and since the de facto complainant was not allowed to play cricket, there was some incident occurred in which he sustained some injuries. On the basis of statement given by him, Crime No.,119/2011 of Kadinamkulam Police Station was registered against the petitioners alleging offences under Sections 341, 294(b), 324 and 34 of Indian Penal Code. After investigation, Annexure A1 final report

has been filed before the Judicial First Class Magistrate's Court-I, Attingal where it was taken on file as CC No.696/2011 and pending before that court. It is seen from the affidavit filed by the 2nd respondent/de facto complainant that the matter has been settled between the parties and on account of the settlement, their old relationship has been restored and he does not want to prosecute the petitioners. Further, it is seen from the allegations itself that it was not a premeditated incident and there is no criminal background for the petitioners as well. It was an incident occurred on some provocation between the friends, who were playing cricket in the ground at that time. Now the matter has been settled between the parties. Even going by the allegations, the offence under Section 294(b) of Indian Penal Code is not attracted. However, Section 324 of the Indian Penal Code was a compoundable offence earlier, only later, by way of amendment, it has become a non-compoundable offence. There is no serious

injuries sustained by the injured as well. On account of the settlement, there is no possibility of 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 Honourable Supreme Court has held that in a case where family disputes and friends were involved and a crime has been registered on account of some incident occurred between them and the matter has been settled between the parties and the old relationship has been restored, then the court can invoke power under Section 482 of Code to quash the proceedings though non-compoundable offences are incorporated in the case in order to promote the settlement and harmony restored between the parties.

8. In view of the dictum laid down in the above decision and also considering the fact that the petitioners and the de facto complainant were friends and the incident

occurred while they were playing cricket and the matter has been now settled between the parties and their friendship has been restored and there is no possibility of any conviction on account of the settlement, 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 can be invoked to quash the proceedings in order to promote the settlement and the harmony restored between the parties.

9. So the application is allowed and further proceedings in C.C No.696/2011 (Crime No.119/2011 of Kadinamkulam Police Station) pending before the Judicial First Class Magistrate I, Attingal, is hereby quashed.

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

Sd/-
K.RAMAKRISHNAN,
JUDGE.

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