

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. 6221 of 2015 ()

CRIME NO. 734/2015 OF TIRUR POLICE STATION, MALAPPURAM

PETITIONER(S)/ACCUSED:

MOHAMMED SHANU, AGED 28 YEARS,
S/O.MOHAMMED KUTTY, POKLASSERI HOUSE, NADUVILANGADI,
POST POOKKAYIL BAZAR, TIRUR TALUK, MALAPPURAM DISTRICT.

BY ADV. SRI.C.M.MOHAMMED IQUABAL

RESPONDENT(S)/STATE& COMPLAINANT:

1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
2. JUSNA JAHAN C., AGED 23 YEARS,
D/O.C.HASSAN, CHELAKKAL HOUSE, THAZHEPALAM,
PO POOKAYIL BAZAR, TIRUR TALUK, MALAPPURAM DISTRICT,
PIN-676 107.

R2 BY ADV. SMT.ANJALI G.KRISHNAN

R1 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:

:2:

Cr1.MC.No. 6221 of 2015 ()

APPENDIX

PETITIONER(S) ' EXHIBITS

:

ANNEXURE A1 : THE TRUE COPY OF THE FIR IN CRIME NO.734/2015
DT 8-5-2015.

ANNEXURE A2 : THE TRUE COPY OF THE AFFIDAVIT OF THE 2ND
RESPONDENT DT 12-9-2015.

RESPONDENT(S) ' EXHIBITS

: NIL

// True Copy//

P.A. to Judge

SS

K. RAMAKRISHNAN, J.

Crl. M.C.No.6221 of 2015

Dated this the 23rd day of September, 2015

ORDER

Sole accused in Crime No.734/2014 of Thirur police station has filed this petition to quash the proceedings on the basis of the settlement under Section 482 of the Code of Criminal Procedure.

2. It is alleged in the petition that the petitioner and 2nd respondent are man and wife and they were living separately for some time due to some misunderstanding and on account of that, some incident occurred in which 2nd respondent said to have sustained some minor injuries. On the basis of the statement given by the 2nd respondent, Annexure-A1 first information report was registered as Crime No.734/2015 of Tirur police station against the petitioner alleging offences under Section 323, 341 and 506 (1) of the Indian Penal Code. Now the matter has been settled between the parties and due to the intervention of

well-wishers of both the parties, they have now started residing together. So the defacto-complainant does not want to prosecute the case. On account of the settlement, even if the investigation is allowed to continue, no purpose will be served. Since it is in the crime stage, they cannot approach the police authorities or court below for recording settlement. Hence the petitioner has no other remedy, except to approach this court seeking the following relief:

“It is respectfully prayed that this Hon'ble Court may be pleased to pass an order quashing Annexure-A1 FIR and the proceedings in pursuant to Crime No.734/2015 of Tirur police station, for the interest of justice”.

3. 2nd respondent appeared through counsel and submitted that the matter has been settled between the parties. On account of the settlement they have started residing together and she does not want to prosecute her husband, who is the accused and the petitioner herein. She had filed an affidavit stating these facts. The counsel for

the petitioner also submitted that on account of the settlement, the matrimonial relationship has been restored and they are living together happily and prayed for allowing the application.

4. Learned Public Prosecutor submitted that since it is in the crime stage, it is not a fit case to invoke the power under Section 482 of the Code of Criminal Procedure to quash the proceedings.

5. It is an admitted fact that the petitioner and 2nd respondent are man and wife and due to some misunderstanding, they were living separately for some time and there was some incident occurred in continuation of the matrimonial dispute and on the basis of the statement given by the 2nd respondent Annexure-A1 first information report was registered as Crime No.734/2015 of Thirur police station against the petitioner alleging offences under Section 341, 323 and 506(1) of the Indian Penal Code. The

matter has been now settled between the parties due to the intervention of the family members and well-wishers and the misunderstanding has been resolved and they have started residing together. The matrimonial harmony has been restored between the spouses on account of the settlement. Normally court will not invoke the power under Section 482 of the Code of Criminal Procedure to quash the proceedings in the crime stage, as normally it will have to culminate in the usual course of filing final report and facing trial.

6. In the decision reported in **Gian Singh v. State of Punjab [2012(4) KLT 108 (SC)]**, the Hon'ble Supreme Court has held that, in the case of family disputes if any crime has been registered and if the matter has been settled and reunion has been caused on account of the settlement, then in extreme cases the court can invoke the power under Section 482 of the Code of Criminal Procedure

to quash the proceedings to promote the settlement and restoration of harmony between the spouses.

7. In view of the dictum laid down in the above decision and also considering the fact that it is a matrimonial dispute resulted in registering the crime and on account of the settlement reunion has happened among the spouses and they are living together happily, the pendency of the case should not be a hurdle for the same and no purpose will be served by proceeding with the investigation or filing of final report on account of the settlement, this court feels that it is a fit case where the power under Section 482 of the Code of Criminal Procedure can be invoked to quash the proceedings, so as to promote the settlement and matrimonial harmony that has happened, which resulted in reunion of the petitioner and the 2nd respondent and the pendency of the case should not be a hurdle for the same.

So the application is allowed and further proceedings in Crime No.734/2015 of Thirur police station as against the petitioner are hereby quashed.

Office is directed to communicate this order to the concerned court for proper action in this regard.

Sd/-

K. Ramakrishnan, Judge

// True Copy//

P.A. to Judge

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