

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V
FRIDAY, THE 26TH DAY OF JUNE 2015/5TH ASHADHA, 1937

CrI.MC.No. 6974 of 2014 ()

CC 1151/2013 of J.M.F.C.-V,KOZHIKODE DATED 27-10-2014
CRIME NO. 489/2013 OF FEROKE POLICE STATION, KOZHIKODE

PETITIONERS/ACCUSD NOS. 1 TO 3:

1. NOUSHAD AGED 31 YEARS
S/O MUHAMMED, AREEPARAMBIL HOUSE
VAZHAPPOTTATHARA FEROKE P.O., KOZHIKODE DISTRICT.

2. AMINA AGED 50 YEARS
W/O MUHAMMED, AREEPARAMBIL HOUSE
VAZHAPPOTTATHARA FEROKE P.O., KOZHIKODE DISTRICT.

3. RAZIYA AGED 32 YEARS
W/O MUHAMMED BASHEER, AREEPARAMBIL HOUSE
VAZHAPPOTTATHARA FEROKE P.O., KOZHIKODE DISTRICT.

BY ADVS.SRI.S.K.SAJU
SRI.A.RANJITH NARAYANAN

RESPONDENTS/STATE AND DEFACTO COMPLAINANT:

1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.
REPRESENTING THE S.I. OF POLICE
FEROKE POLICE STATION, KOZHIKODE-673001.

2. SAJITHA, AGED 26 YEARS
D/O ABOOBACKER, ERANJIKKAD HOUSE, KOLATHARA P.O.
KANATTIKULAM, KOZHIKODE DISTRICT.

BY ADV. SMT.M.LISHA
BY PUBLIC PROSECUTOR SMT. SEENA RAMAKRISHNAN

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
26-06-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CrI.MC.No. 6974 of 2014

APPENDIX

ANNEXURES

ANNEXURE A1: TRUE PHOTOSTAT COPY OF THE FIRST INFORMATION REPORT DATED 19.11.2013 IN CRIME NO.489/2013 REGISTERED BY THE 1ST RESPONDENT.

ANNEXURE A2: TRUE COPY OF JUDGMENT DATED 27.10.2014 PASSED BY THE LEARNED JFCM-V, KOZHIKODE IN C.C.NO.1151/2013.

ANNEXURE A3: TRUE COPY OF THE ORDER DATED 5.11.2014 PASSED BY THE LEARNED JFMC-V, KOZHIKODE IN M.C.NO.32/2013.

ANNEXURE A4: CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.489/2013 FILED BY THE RESPONDENT POLICE BEFORE THE LEARNED JFMC-V, KOZHIKODE.

ANNEXURE A5: AFFIDAVIT SWORN BY THE 2ND RESPONDENT/DEFACTO COMPLAINANT DATED 1.12.2014.

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P.S.To Judge

RAJA VIJAYARAGHAVAN.V. J

Crl.M.C. 6974 of 2014

Dated 26th June, 2015

ORDER

- 1.This is a petition filed u/s 482 of the Code of Criminal Procedure.
- 2.The petitioners are the accused in Crime No.489 of 2013 of Feroke police station, Kozhikode. The case has been committed and is pending as C.P.No.32 of 2014 on the files of the JFMC-V, Kozhikode.
- 3.They are charged for having committed offence punishable under Sections 498A, 307, 326 and 506(1) r/w Section 34 of Indian Penal Code and under Section 31 of the Protection of Women from Domestic Violence Act.
- 4.The prayer in this Crl.M.C is to quash all further proceedings in the aforesaid crime by exercising the extraordinary inherent powers of this Court.

5.The 2nd respondent in this case is the wife of the 1st petitioner. It is submitted by the respective counsels that the matter has been settled by the parties *inter se*. The 2nd respondent has entered appearance through counsel and she has also filed an affidavit before this Court in which, it has been stated that the matter in dispute between the parties has been settled, at the instance of mediators, amicably and the marital relationship has also ended in divorce. An agreement has also been executed on 18.8.2014 between the parties settling all the issues.

6.I have heard the learned counsel for the petitioner, the learned counsel appearing for the 2nd respondent and also the learned Public Prosecutor.

7.I take note that allegations of commission of offence under Section 307 is also there in the final report. Referring to **Narinder Singh and others v. State of Punjab and anr. (2014) 4 SCALE 195** the learned counsel for the petitioner submitted that the attendant and inseparable circumstances also be considered at the time of invocation of the extraordinary powers. It is submitted that the

dispute arose out of a matrimonial quarrel and offence under Section 307 was also incorporated at the early stage to suit the situation which prevailed then.

8. The learned counsel for the 2nd respondent has asserted that the statement in the affidavit filed by the 2nd respondent are true to facts. I am convinced that the offences are entirely personal in nature and, therefore, do not affect public peace or tranquility. It has been held by the Apex Court, that the high court, while exercising powers under S 482 will be justified in quashing cases involving even non-compoundable offences if the disputes are really private in nature and no public interests are involved provided that the offenses are not of the gravely objectionable nature. I have anxiously gone through the relevant records and also the affidavit filed by the defacto complainant. I am convinced that the extraordinary powers under S 482 can be invoked as the case falls within the matrix of guidelines laid down by the Apex Court in **Gian Singh v. State of Punjab (2012 (4) KLT 108)** and in **Narinder Singh and others v. State of Punjab (2014) 6 SCC 466** and other cases. It is also felt

that quashing of the instant proceedings would bring about peace and secure ends of justice. No purpose will be served in subjecting the parties to the ordeal of a protracted trial in view of the settlement. It will only enure to waste valuable judicial hours. I am therefore, of the view that the criminal proceedings pending as against the petitioners can be quashed by invoking the inherent powers of this Court under S 482 of the Code of Criminal Procedure.

9. In the result, this Crl.M.C. is allowed. Annexure-4 final report pending as C.P. No.32 of 2014 on the files of JFMC-V, Kozhikode, stands quashed.

Sd/-

RAJA VIJAYARAGHAVAN.V.
Judge

MrCs

//True Copy//

P.S.ToJudge