

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

TUESDAY, THE 14TH DAY OF JULY 2015/23RD ASHADHA, 1937

Crl.Rev.Pet.No. 580 of 2010

CRL.A 596/2007 of ADDL. DISTRICT & SESSIONS COURT, VADAKARA

CC 892/2004 of J.M.F.C., VADAKARA

REVISION PETITIONERS/APPELLANTS/ACCUSED:

1. N.RAJAN MASTER,
THUNDIPARAMBATH HOUSE, PAZHANKAVU, NUT STREET
VADAKARA-4.

2. MANIKOTH RAGHAVAN, S/O.CHATHU,
MANIKOTH HOUSE, PAZHANKAVU, VADAKARA-4.

3. MADHAVAN, PUTHANPURAYIL HOUSE,
PARAVANTHALA, VADAKARA-4.

4. BHASKARA PANICKER,
'ADHWAIIDHAM', NAMBOORIKANDY, PAZHANKAVU
VADAKARA.

5. BALAKRISHNAN, S/O.CHATHU,
PUTHENPURAYIL HOUSE, PAZHANKAVU, VADAKARA-4.

6. P.N.SREEDHARAN, S/O.KITTAN,
PALLIMADATHUMMAL HOUSE, PAZHANKAVU, VADAKARA-4.

BY ADV. SRI.P.V.KUNHIKRISHNAN

RESPONDENTS/RESPONDENTS/COMPLAINANT & STATE:

1. M.K.S.NAMBIAR, S/O.T.C.APPUKURUP,
NO.76, POOMPUHAR COLONY, KOLATHUR
CHENNAI-99, PRESENT ADDRESS: C/O.MOHAN KUMAR
N.S.S.SECURITY, PARAVANTHALA, NUT STREET
VADAKARA.

2. STATE OF KERALA,
REP.BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM.

R1 BY ADVS. SRI.U.K.DEVIDAS
SRI.K.K.ANILRAJ

R2 BY PUBLIC PROSECUTOR SRI.JIBU.P.THOMAS.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY
HEARD ON 14-07-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

APPENDIX

PETITIONERS' ANNEXURES:

A: COPY OF THE ORDER DATED 27.07.2007 IN
CRL.M.P.NO.1533/2007 IN CRL.A.No.596/2007 ON THE FILE
OF THE SESSIONS COURT, KOZHIKODE.

B : COPY OF THE JUDGMENT DATED 17.03.2009 IN A.S.8/2007 ON
THE FILE OF THE SUBORDINATE JUDGE, VADAKARA.

RESPONDENTS' ANNEXURES : NIL

//TRUE COPY//

P.A TO JUDGE

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K.HARILAL, J.

**Crl.M.A.No.6662 of 2014 in
Crl.R.P No. 580 of 2010**

Dated this the 14th day of July, 2015

ORDER

The revision petitioners are the accused in C.C No. 892/2004 on the files of the Judicial First Class Magistrate's Court, Vadakara as well as the appellant in Criminal Appeal No. 596/2007 on the files of Additional District & Sessions Court, Vadakara. They were prosecuted for the offences punishable under Sections 143, 147, 427, 447 read with Section 149 of the Indian Penal Code and convicted thereunder. All accused are sentenced to undergo simple imprisonment for one month each under Section 143 IPC, simple imprisonment for three months each under Section 147 IPC, simple imprisonment for four months each and to pay a fine of ₹2,000/- each under Section 427 IPC and simple imprisonment for one month

under Section 447 read with Section 149 IPC. Out of the fine amount recovered, half of the amount shall be given to PW1 under Section 357(1)(b) Cr.P.C. In default, to undergo simple imprisonment for two months each. This revision petition is filed challenging the concurrent findings of conviction and sentence.

2. In the above Crl.MA, it is stated that the dispute between the petitioners and the 1st respondent has been amicably settled out of court and the 1st respondent is not having any further complaint in the matter. The dispute was purely personal in nature. So, the 1st respondent does not intend to proceed against the petitioners. In support of the petition signed by both parties and counter signed by the respective counsel, the 1st respondent has filed an affidavit stating the said fact.

3. The learned counsel appearing for the petitioners has prayed for compounding the offences in view of the decision of the Apex Court in **Gian Singh V. State of**

Punjab [2012 (4) KLT 108 (SC)].

4. The learned counsel for the 1st respondent also submits that the averments in the petition as well as in the affidavit are true to the best of his knowledge and belief and now the 1st respondent has no subsisting grievance at all.

5. I have meticulously considered the decision laid down in **Gian Singh v. State of Punjab** [2012 (4) KLT 108 (SC)]. In the above case, three Judge Bench of the Apex Court, on a reference, considered the question whether the High Court has power to quash criminal proceedings involving non-compoundable offences on the basis of the compromise reached between the offender and the victim and answered as given below:

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or F.I.R. or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under S.320 of the

Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz;(1) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R. may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc., cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the

criminal cases having overwhelmingly and pre-dominatingly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc., or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer

and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

6. In view of the proposition laid down above, the question to be considered, in the instant case, is, whether the non-compoundable offence involved in this case can be compounded, in the exercise of the inherent power under Section 482 of the Code of Criminal Procedure. Prima facie, I find that the offences alleged against the petitioners will not come under the category of non-compoundable offences, which are specifically excluded from composition, in the exercise of inherent power under Sec.482 of the Cr.P.C. Going by the affidavit filed by the 1st respondent, it is seen that the dispute between the accused and the 1st respondent had been amicably settled and, at present, the 1st respondent has no subsisting grievance at all. The 1st respondent does not want to proceed with prosecution

against the accused. In view of the compromise between the petitioner and the 1st respondent, I find that the possibility of conviction is remote, bleak and continuation of the criminal case would, put the parties to great oppression, prejudice and also tantamount to abuse of the process of the court. The present criminal prosecution against the accused must be put to an end to secure the interest of justice.

7. Therefore, in the light of the above decision, in exercise of power under Section 482 of the Cr.P.C, permission is granted to compound all the offences and composition is recorded. The composition of the offences will have the acquittal of the accused under sub Section (8) of Section 320 of the Cr.P.C.

This Crl.M.A is allowed.

K.HARILAL, JUDGE

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