

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

WEDNESDAY, THE 24TH DAY OF JUNE 2015/3RD ASHADHA, 1937

Crl.Rev.Pet.No. 1733 of 2013 (B1)

AGAINST THE JUDGMENT IN CRL.A 110/2013 of ADDITIONAL DISTRICT
& SESSIONS COURT (FAST TRACK-I), PATHANAMTHITTA DATED 07-08-
2013

AGAINST THE JUDGMENT IN CC 354/2006 of J.M.F.C.-I,
PATHANAMTHITTA DATED 25-04-2013
REVISION PETITIONER(S)/APPELLANT/ACCUSED NO.1:

BABU.G.NAIR, AGED 61 YEARS,
S/O. GOPALA PILLAI, KANJIRAKKODU VEEDU, EDAKON,
KALANJOOR VILLAGE, PATHANAMTHITTA DISTRICT.

BY ADVS.SRI.JACOB P.ALEX
SRI.JOSEPH P.ALEX

RESPONDENT(S)/RESPONDENTS/COMPLAINANT/ADDL.2ND RESPONDENT :

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

*ADDL.R2:

THANKAMANIAMMA, D/O. SAROJANI,
MAILANILKUNATHIL VEEDU,
KODAMURI, KINDANGOOR VILLAGE,
PATHANAMTHITTA DISTRICT.
(* IMPEADED AS ADDL.2ND RESPONDENT AS PER ORDER DATED
24.6.2015 ON CRL.M.A.3387/2015 IN CRL.R.P.1733/2013)

R1 BY PUBLIC PROSECUTOR SRI.JUSTINE JACOB
ADDL.R2 BY ADV.SRI.S.JAYAKRISHNAN

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY
HEARD ON 24-06-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

OKB

K.HARILAL, J.

Crl.R.P. No.1733 of 2013

Dated this the 24th day of June, 2015.

O R D E R

The petitioner herein is the revision petitioner/1st accused in the above revision petition, which is preferred against the judgment in Crl. Appeal No.110/2013 passed by the court of the Additional District & Sessions Judge (Fast Track-I), Pathanamthitta, whereby the order of conviction and sentence passed against the revision petitioner in C.C.No.354/2006 of the Judicial First Class Magistrate's Court-I, Pathanamthitta for the offence punishable under Section 498A of the IPC has been confirmed. Now the revision petitioner/1st accused stands sentenced to undergo simple imprisonment for six months and to pay a fine of Rs.5,000/- and in default to undergo simple imprisonment for a further period of two

months.

2. In this revision, the revision petitioner/1st accused and the de facto complainant/additional second respondent have jointly filed Crl.M.A.No.3386/2015 wherein it is stated that the dispute between the revision petitioner and the de facto complainant has now been amicably settled through mediation before the High Court Mediation Centre. A copy of the memorandum of settlement between the parties is produced herewith as Annexure-A. As per the settlement, the de facto complainant/additional second respondent agreed to compound the offence for which the revision petitioner stands convicted and sentenced thereunder. In the affidavit filed by the additional second respondent, it is specifically stated that now she has no subsisting grievance against the revision petitioner and she does not intend to proceed against him. Hence, both parties jointly prayed for setting aside the conviction and sentence under the impugned judgment.

3. Heard the learned counsel for the revision petitioner and the additional second respondent. The learned counsel for the revision petitioner cited the decision in *Gian Singh v. State of Punjab* [2012(4) KLT 108 (SC)], wherein it is held as follows:

“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.”

4. Going by the petition jointly filed by the

revision petitioner and the de facto complainant, it is seen that the de facto complainant does not want to proceed with prosecution against the accused. Full and final settlement and compromise with the victim are evidenced by the affidavit filed by the de facto complainant. In view of the compromise between the petitioner and the victim, 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. Therefore, the offence under Section 498A of the IPC would stand compounded.

5. In the result, the conviction entered and sentence imposed on the revision petitioner/1st accused under Section 498A of the IPC by the Judicial First Class Magistrate's Court-I, Pathanamthitta in C.C.No.354/2006 and confirmed by the Additional District & Sessions Judge (Fast Track-I),

Pathanamthitta in Crl.Appeal No.110/2013 will stand quashed in the exercise of jurisdiction and power under Section 482 of the Cr.P.C.

This criminal revision petition is disposed of accordingly.

Sd/-
K. HARILAL, JUDGE

okb.