

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 28TH SEPTEMBER 2007 / 6TH ASWINA 1929

Crl.MC.No. 3013 of 2007()

CRIME NO.296/07 PENDING BEFORE THE JFCM COURT-I, ERNAKULAM.

PETITIONER:

SANKARANARAYANAN, AGED 35 YEARS,
S/O. RAGHUNATHAN NAIR, SWASRAYAM HOUSE,
EDAPPALLY NORTH.

BY ADV. SMT.P.F.ROSY
SMT.K.T.LILLY @ LILLY JAMES

RESPONDENTS: RESPONDENTS

1. STATE OF KERALA, REPRESENTED BY
ITS PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.
2. JAYALAKSHMI, AGED 29 YEARS,
D/O. VIJAYAKUMARAN NAIR, HRISHIKESH HOUSE,
SOUTH CHITTOOR, NEAR SREEKRISHNA SWAMY TEMPLE,
CHERANELLOOR VILLAGE. (DE FACTO COMPLAINANT)

BY P.P. SRI.M.S. BREEZ.
BY ADV. SRI.S.RADHAKRISHNAN
SRI.S.RAJ MOHAN

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 28/09/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

Crl.M.C.No. 3013 of 2007

Dated this the 28th day of September, 2007

ORDER

The petitioner is the accused in a crime registered for offences punishable under Sections 341, 323, 354 and 294B I.P.C. The offences were allegedly committed against his estranged wife, the 2nd respondent herein. The spouses were at logger heads. The wife was not willing to cohabit with the husband. The husband, while she was walking along the road, forcibly compelled to go with him. He is alleged to have used words crossing the limits of decency. Crime has been registered. Investigation is in progress. The petitioner/accused and the respondent/defacto complainant have come before this Court jointly to make a request that the F.I.R., on the basis of the complaint of the second respondent against the petitioner, may be quashed. They have settled their marital disputes. A joint application for divorce has already been filed. The matter is posted for orders. It is part of the terms of the harmonious settlement that all cases shall be brought to termination. Continuance of the investigation into this crime would result in needless and unnecessary irritation in the

relationship between the parties. In these circumstances, invoking the dictum in **B.S. Joshi** v. **State of Haryana** (AIR 2003 SC 1386) this court may be pleased to quash the F.I.R., it is prayed.

2. Notice was given to the learned Prosecutor. He does not raise any objection. The second respondent has entered appearance through Adv. S. Rajmohan. He has filed a Vakalath also. The counsel for the second respondent asserts that the matter has been harmoniously settled. He vouches for the settlement.

3. I am satisfied that the parties have settled their disputes amicably. The settlement and composition can be accepted and premature termination of proceedings can be brought, if such course be legally permissible. The offence under Section 294(b) I.P.C. is not legally compoundable. But I am satisfied that this is a fit case where the dictum in **B.S. Joshi** can be pressed into service and the jurisdiction under Section 482 Cr.P.C. invoked to do complete justice towards the parties. Normally this court would have frowned upon the attempt to compound the offence under Section 294(b) I.P.C. But I have been taken through the F.I.R. The words are used in the conversation between the husband and the wife in the course of a dispute when tempers were running high. In these circumstances I am satisfied

that powers under Section 482 Cr.P.C. can be invoked in favour of the petitioner.

4. This Crl.M.C. is accordingly allowed. Crime No.296 of 2007 registered at Kochin Harbour Police Station and all further proceedings taken in pursuance of the said F.I.R. is hereby quashed.

(R. BASANT)
Judge

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