

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 31ST JULY 2008 / 9TH SRAVANA 1930

Crl.MC.No. 2913 of 2008()

CRIME NO. 128/04 OF KILIMANOOR POLICE STATION
CC.170/2008 of JUDL. MAGISTRATE OF FIRST CLASS COURT-II, ATTINGAL
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PETITIONERS/A1 TO A5:

1. BABU, AGED 33 YEARS, S/O. RANGANATHAN
RESIDING AT CHARUVILA PUTHANVEEDU
MULAKKALATHU KAVU, KILIMANOOR VILLAGE
KILIMANOOR.
2. KAMALAMMA, D/O. KRISHNAMMA, AGED 62 YEARS
DO. DO.
3. GIRIJA, W/O. RAMANUJAN, AGED 38 YEARS
RESIDING AT 'VISHAKAM', MUKOOTT,
MULAVANA VILLAGE, KUNDARA DESOM
KOLLAM DIST.
4. GEETHA, W/O. RAMACHANDRAN ACHARI
AGED 39 YEARS, PLAVILA PADINJATTETHIL
MUKKODU, KUNDARA P.O., MULAVANA VILLAGE
KOLLAM DIST.
5. MINI, W/O. AYYAPPAN, AGED 30 YEARS
RESIDING AT LAKSHMI VILASAM HOUSE
KULAKKADA, KALAYAPURAM VILLAGE
KULAKKADA DESOM, KOTTARAKKARA TALUK
KOLLAM DIST.

BY ADV. SMT.C.R.SARADAMANI
SMT.SONIYA.M

RESPONDENTS/COMPLAINANT:

1. THE STATION HOUSE OFFICER, KILIMANOOR
POLICE STATION, REP. BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

2. SUMA, D/O. OMANA, AGED 24 YEARS
RESIDING AT CHARUVILA PUTHANVEETIL
NEAR MANDEKKATTU NADA TEMPLE,
THACHAKKOTTUKONAM DESOM,
POOYAPPILLY VILLAGE, KOTTARAKKAR TALUK
KOLLAM DIST.

R1 BY PUBLIC PROSECUTOR SRI. AMJAD ALI
R2 BY ADV. PAULY MATHEW MURICKEN

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 31/07/2008, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

Crl.M.C.No. 2913 of 2008

Dated this the 31st day of July, 2008

ORDER

The petitioners face indictment in a prosecution for the offence punishable under Section 498A r/w. 34 I.P.C. The first petitioner is the husband of the second respondent/defacto complainant and the other petitioners are relatives of the first petitioner. Cognizance was taken on the basis of the final report submitted by the police after due investigation. The case is pending before the JFMC-II, Attingal.

2. The petitioners, along with the second respondent, have come before this Court to apprise this court of the fact that the parties have settled their disputes and the second respondent along with the first petitioner is leading a harmonious matrimonial life at the matrimonial home. The second respondent has compounded the offences allegedly committed by the petitioners. In these circumstances the composition may be accepted and the unnecessary continuance of the proceedings

may be stopped. The extra ordinary inherent jurisdiction available to this Court under Section 482 Cr.P.C. may be invoked to bring to premature termination the proceedings against the petitioners, it is prayed.

3. The second respondent has entered appearance through counsel and filed an affidavit duly attested by her counsel. Counsel for the second respondent vouches for the signature of the second respondent in the affidavit filed. The counsel for the petitioners and the second respondent asset at the Bar that the parties have settled the disputes.

4. I am satisfied from the totality of circumstances that there has been a genuine and voluntary settlement of the disputes and that the second respondent has compounded the offences allegedly committed by the petitioners. If legally permissible, I am satisfied that the composition can be accepted and the proceedings can be brought to premature termination.

5. The offence under Section 498A I.P.C. is not legally compoundable and the composition cannot be accepted under Section

320 Cr.P.C. But the learned counsel for the petitioners relies on the decision in **B.S. Joshi** v. **State of Haryana** (AIR 2003 SC 1386). The said decision is authority for the proposition that at times the interests of justice may transcend the interests of mere law and in such circumstances the provisions of Section 320 Cr.P.C. cannot be reckoned as a fetter on the sweeping powers of the Court under Section 482 Cr.P.C. to act in aid of justice. I am satisfied that this is an eminently fit case where the powers under Section 482 Cr.P.C. with the help of the dictum in **B.S. Joshi** can be invoked and the proceedings against the petitioners brought to premature termination.

6. This Crl.M.C. is hence allowed. C.C. No. 170 of 2008, pending before the Judicial First Class Magistrate-II, Attingal, against the petitioners is hereby quashed.

(R. BASANT)
Judge

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