

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

TUESDAY, THE 28TH DAY OF APRIL 2015/8TH VAISAKHA, 1937

Crl.MC.No. 2154 of 2015

**Crl.A.394/2012 & Crl.A 431/2012 OF ADDITIONAL SESSIONS COURT-I, MAVELIKKARA.
CC 811/2009 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, KAYAMKULAM.
CRIME NO.617/2009 OF KAYAMKULAM POLICE STATION.**
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PETITIONER(S)/ACCUSED 1 AND 3:

- 1. SOORAJ MOHAN, S/O.LATE SANTHA MOHAN,
AGED 39 YEARS, SOUBHAGYAM VEEDU,
ALTHARA NAGAR, VAZHUTHACAUD,
THIRUVANANTHAPURAM.**
- 2. GEETHA MOHAN, W/O.LATE SANTHA MOHAN,
AGED 28 YEARS,SOUBHAGYAM VEEDU,
ALTHARA NAGAR, VAZHUTHACAUD,
THIRUVANANTHAPURAM.**

BY ADV. SRI.B.MOHANLAL

RESPONDENTS/COMPLAINANT & STATE:

- 1. STATE, REPRESENTED BY
THE STATION HOUSE OFFICER,
KAYAMKULAM POLICE STATION,
ALAPPUZHA DISTRICT,
THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. SMT.SUDHA LEKSHMI, D/O.K.K.SUDHAKARAN,
SUDHA HOUSE, NEAR GOVERNMENT HOSPITAL,
KAYAMKULAM, KAYAMKULAM P.O.,
ALAPPUZHA, PIN - 690 502.**

**R1 BY PUBLIC PROSECUTOR SRI.ABHIJETT LESSLI
R2 BY ADV. SRI.G.PRIYADARSAN THAMPI**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 28-04-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' ANNEXURES:

- ANNEXURE A1:** THE TRUE COPY OF THE FIR AND FIS IN CRIME NO.617/2009 OF KAYAMKULAM POLICE STATION REGISTERED BY THE 1ST RESPONDENT.
- ANNEXURE A2:** THE TRUE COPY OF THE FINAL REPORT IN CC 811/2009 ON THE FILE OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT, KAYAMKULAM.
- ANNEXURE A3:** THE TRUE COPY OF THE JUDGMENT IN CC 811/2009 ON THE FILE OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT, KAYAMKULAM DATED 31/10/2012.
- ANNEXURE A4:** THE TRUE COPY OF THE SETTLEMENT ENTERED INTO BETWEEN THE 1ST PETITIONER AND THE 2ND RESPONDENT.
- ANNEXURE A5:** THE TRUE COPY OF THE AFFIDAVIT FILED BY THE 2ND RESPONDENT DATED 29/03/2015.

RESPONDENT(S)' ANNEXURES: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

ANIL K. NARENDRA, J.

Crl.M.C. No. 2154 of 2015

Dated this the 28th day of April, 2015

ORDER

Petitioners are accused Nos.1 and 3 in Crime No. 617/2009 of Kayamkulam Police Station in C.C. No. 811/2009 on the file of the Judicial First Class Magistrate Court, Kayamkulam pending in Crl. A. No. 394/2012 and Crl. A. No. 431/2012 on the file of the Additional Sessions Court-I, Mavelikkara. The learned Magistrate took cognizance of the offences under Sections 341, 323 and 498 (A) read with Section 34 of Indian Penal Code, based on a private complaint filed by the second respondent. Now, it is submitted on behalf of the petitioners that the entire dispute between the petitioners and the second respondent has already been settled and the second respondent has also sworn to an affidavit which is produced along with Crl.M.C. as Annexure A5. Therefore, the prayer in this Crl.M.C. is to quash Annexure-A1 and A2 FIR and Final Report in Crime No. 617/2009 of Kayamkulam Police Station and the conviction in Annexure A3 judgment in C.C. No. 811/2009 on the file of the Judicial First Class Magistrate Court, Kayamkulam pending in Crl. A. No. 394/2012

and Crl. A. No. 431/2012 on the file of the Additional Sessions Court-I, Mavelikkara as against the Petitioners in the light of Annexure-A5 Compromise entered into between the parties.

2. Heard, the learned counsel for petitioners, learned Public Prosecutor appearing for the first respondent and the learned counsel for the second respondent.

3. In **Gian Singh v. State of Punjab (2012 (10) SCC 303)**, the Apex Court held that, the power of the High Court in quashing a criminal proceeding or FIR 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 Section 320 of the Code of Criminal Procedure. 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.; (i) 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 FIR 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 criminal cases having overwhelmingly and predominatingly civil flavour stand on a different footing for the purpose of quashing, particularly offences arising from commercial, financial, mercantile, civil partnership or such like transactions or the offences arising out of matrimonial 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 these categories of cases, High

Court may quash criminal proceedings, if in its view, because of the compromise between the offender and the victim, the possibility of a 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 may consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceedings or continuation of criminal proceedings would tantamount to abuse of process of law despite settlement and compromise between the victim and wrong-doer 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 is in affirmative the High Court shall be well within its jurisdiction to quash the criminal proceedings.

4. The allegation against the petitioners is that they have committed offences punishable under Sections 341, 323, 498A read with Section 34 of the Indian Penal Code.

5. Now as submitted by both sides, the entire dispute between the petitioners and the second respondent has already been settled amicably and the learned counsel for the second respondent has also stated that the second respondent does not want to prosecute the criminal case filed against the petitioners. The second respondent has also sworn to an affidavit before this Court as Annexure A5 in this regard.

6. In such circumstances, this is a fit case in which the proceedings pending against the petitioners in Crime No. 617/2009 of Kayamkulam Police Station in C.C. No. 811/2009 on the file of the Judicial First Class Magistrate Court- Kayamkulam pending in Crl. A. No. 394/2012 and Crl. A. No. 431/2012 on the file of the Additional Sessions Court-I, Mavelikkara can be quashed by this Court invoking the powers under Section 482 of the Code of Criminal Procedure, in the light of the principles laid down by the Apex Court in **Gian Sing's case (supra)**.

In the result, this Crl.M.C. is allowed and the entire proceedings in Crime No. 617/2009 of Kayamkulam Police Station and in C.C. No. 811/2009 on the file of the Judicial First Class

Magistrate Court, Kayamkulam pending in Crl. A. No. 394/2012 and Crl. A. No. 431/2012 on the file of the Additional Sessions Court-I, Mavelikkara against the petitioners are quashed.

**ANIL K. NARENDRAN
JUDGE**

DCS