

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS.JUSTICE M.R.ANITHA

TUESDAY, THE 31<sup>ST</sup> DAY OF AUGUST 2021/9TH BHADRA, 1943

CRL.M.C. NO.1885 OF 2021

(AGAINST THE ORDER/JUDGMENT IN CC 1396/2020 OF JUDICIAL  
MAGISTRATE OF FIRST CLASS, VADAKARA, KOZHIKODE)

PETITIONERS/ACCUSED 1 TO 4:

- 1 RUVAIS P.P., AGED 31 YEARS, S/O.MOIDEEN,  
PALLIPPURAYIL HOUSE, KOTTAKKAL P.O., IRINGAL VIA,  
KOZHIKODE DISTRICT, PIN-673 521.
- 2 ASYA, AGED 54 YEARS, W/O.MOIDEEN,  
PALLIPPURAYIL HOUSE, KOTTAKKAL P.O.,  
IRINGAL VIA, KOZHIKODE DISTRICT, PIN-673 521.
- 3 MOIDEEN CHEMBATH, S/O.MUHAMMED,  
PALLIPPURAYIL HOUSE, KOTTAKKAL P.O., IRINGAL VIA,  
KOZHIKODE DISTRICT, PIN-673 521.
- 4 RASHID P.P, AGED 26 YEARS, S/O.MOIDEEN,  
PALLIPPURAYIL HOUSE, KOTTAKKAL P.O., IRINGAL VIA,  
KOZHIKODE DISTRICT, PIN-673 521.

BY ADV ZUBAIR PULIKKOOL

RESPONDENTS/DE- FACTO COMPLAINANT & STATE:

- 1 SOUDHA BEEVI.C.V, D/O.LATE MUTHUKOYA,  
CHIRAKKAL VALAPPIL HOUSE, VADAKARA BEACH P.O.,  
VADAKARA THALUK, KOZHIKODE DISTRICT, PIN-673 101.
- 2 STATE OF KERALA,  
REPRESENTED BY PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM-682 031.

BY ADV SHRI.SALMANUL FASIL - FOR R1

SRI ARAVIND MATHEW, PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR  
ADMISSION ON 31.08.2021, THE COURT ON THE SAME DAY  
DELIVERED THE FOLLOWING:

**M.R.ANITHA, J**

- - - - -  
Criminal M.C. No.1885 of 2021  
- - - - -

Dated : 31<sup>st</sup> August, 2021

**ORDER**

This Criminal M.C. has been filed by the petitioner seeking to quash the entire proceedings in Annexure-A1 final report in Crime No.1275 of 2019 of Vadakara police station and all further proceedings in C.C.No.1396 of 2020 on the files of the Judicial First Class Magistrate Court, Vadakara.

2. The petitioners are, husband and in-laws of the first respondent/de-facto complainant. The crime against the petitioners was registered under Section 498-A, 406 read with 34 I.P.C.

3. The marriage between the first

petitioner and the first respondent was solemnised on 23.12.2017 and they were residing together in the matrimonial home, meanwhile some dispute arose between them by demanding more gold ornaments and money, thereby petitioners alleged to have committed the offences as stated above and the case was charged against the petitioners which is pending as C.C.No.1396 of 2020 before the Judicial First Class Magistrate Court, Vadakara. Now the parties settled the dispute amicably.

4. The counsel for the petitioner and the de-facto complainant/first respondent were heard. Both counsel submitted that the parties resolved the dispute and they decided to live together. Annexure-A2 is the affidavit sworn in by the first respondent/de-facto complainant and Annexure-A3 is the agreement executed

between the first respondent/de-facto complainant and the first petitioner. The affidavit and the agreement produced from the side of the petitioners would show that the parties have amicably settled their disputes. The learned Public Prosecutor on instructions submitted that the statement of the first respondent/de-facto complainant was taken by the Sub Inspector of Police, Vadakara Police Station, in which the first respondent admitted that they are residing together and the dispute between them had been amicably settled.

5. In *Gian Singh v. State of Punjab and Another* (2012 (10) SCC 303 : 2012 KHC 4530) a three Judge Bench of the Hon'ble Supreme Court while dealing with Section 482 of the Code of Criminal Procedure, 1973 has held that criminal cases having civil flavour and arising from criminal financial mercantile, civil, partnership, matrimony relating

to dowry or family disputes where wrong is private or personal in nature can be quashed in view of the settlement between the parties. Paragraph 57 of the said decision is relevant in this context to be extracted which reads as follows :-

"The position that emerges from the above discussion can be summarised thus: 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. 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 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. Having considered the gravity of the offences alleged, and having perused the affidavit filed by the petitioner and the de-facto complainant/first respondent, the contents of which are submitted to be true and voluntary, I am satisfied that the dispute is settled and that no public interest is involved in this matter. As

such, continuance of the proceedings will amount to an abuse of process of court.

In the result, this Crl.M.C. is allowed. Annexure-A1, Final Report in Crime No.1275/2019 of Vadakara Police Station and all further proceedings in C.C.No.1396 of 2020 on the files of the Judicial First Class Magistrate Court, Vadakara are hereby quashed.

*Sd/-*

**M.R.ANITHA,  
JUDGE**

ss