

Pradeepan.a Vs. GeethA.M

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Court : Kerala

Decided On : Aug-19-2014

Judge : Honourable Mr.Justice V.K.Mohanan

Appellant : Pradeepan.a

Respondent : GeethA.M

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE V.K.MOHANAN TUESDAY, THE 19TH DAY OF AUGUST 2014 28TH SRAVANA, 1936 CRL.MC.NO. 4685 OF 2014----- [C.C. NO.701/2014 ON THE FILE OF THE JUDICIAL FIRST CLASS - MAGISTRATE COURT, PAYYANNUR CRIME NO. 372/2014 OF PAYYANNUR POLICE STATION , KANNUR] PETITIONERS/ACCUSED NOS.1 & 2: ----- 1. PRADEEPA. A, AGED 31 YEARS, S/O.RAJEEVAN, VAIKKATH HOUSE, ANOOR, KARIVELLUR AMSOM, KANANUR DISTRICT.

2. KISHOR PAVOOR, AGED 30 YEARS, S/O.KRISHNAN, PAVOOR HOUSE, ANOOR, KARIVELLUR AMSOM, KANANUR DISTRICT. BY ADVS.SRI.ZUBAIR PULIKKOOL, SRI.P.S.BINU. RESPONDENTS/COMPLAINANT: ----- 1. GEETHA.M, AGED 40 YEARS, W/O. MADHU M.T., MADATHIL THOTTUKAYIL HOUSE, MANASSERRY, MUKKAM, KOZHIKODE DISTRICT, PIN - 673 602.

2. MADHU M.T., AGED 45 YEARS, MADATHIL THOTTUKAYIL HOUSE, MANASSERRY, MUKKAM, KOZHIKODE DISTRICT, PIN - 673 602.

3. STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, PIN - 682 031. R1 & R2 BY ADV. SMT.P.A.ANEESHA, R3 BY PUBLIC PROSECUTOR SRI. DHANESH MATHEW MANJOORAN. THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 19/08-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Prv. CRL.M.C. NO.4685/2014: APPENDIX PETITIONERS' ANNEXURES: ANNEXURE-I: COPY OF THE RELEVANT PORTION OF THE FINAL REPORT IN CRIME NO.372/2014 OF THE PAYYANNUR POLICE STATION. ANNEXURE-II: COPY OF THE AFFIDAVIT OF THE 1ST RESPONDENT. ANNEXURE-III: COPY OF THE AFFIDAVIT OF THE 2ND RESPONDENT. RESPONDENTS' ANNEXURES: NIL. //TRUE COPY// P.S. TO JUDGE. Prv. V.K.MOHANAN, J.

----- Crl.M.C.No. 4685 of 2014
----- Dated this the 19th day of August, 2014

ORDER

The above petition is filed under Section 482 of the Criminal Procedure Code (for short 'Cr.P.C.') at the instance of the petitioners, who are accused Nos. 1 and 2 in C.C.No. 701/2014 of the Judicial First Class Magistrate Court, Payyannur, which is a case instituted upon the police report in Crime No. 372/2014 of Payyannur Police Station for the offences punishable under Sections 341, 323, 324, 354, 354A, 294(b) read with Section 34 of I.P.C. with a prayer to quash Annexure I final report and all further proceedings in C.C.No.701/2014 on the file of the Judicial First Class Magistrate Court, Payyannur in Crime No.372/2014 of Payyannur Police Station as the matter is settled out of court.

2. The allegation in the above case is that on 5.4.2014 at 15.00 hrs. while the de facto complainant, her husband and son travelling in a car to join a marriage function at Mukkam in Kozhikode, and when they Crl.M.C.No.4685 of 2014 :-2:- reached at Kaivellur, the accused persons unlawfully restrained them and abused

in filthy language and attacked them etc. and thereby the accused outraged the modesty and committed the offences punishable under Sections 341,323, 324,354,354A,294(b) read with Section 34 of I.P.C. and now, the case of the petitioners is that the matter is settled out of court.

3. Heard the learned counsel for the petitioners as well as the respondents 1 and 2. I have also heard the learned Public Prosecutor.

4. The learned counsel for the petitioners submitted that during the pendency of the above case, the matter is settled amicably between the parties to the dispute which is the subject matter of the above case. Therefore, the continuation of the proceedings in the above case is abuse of process of law and proceedings.

5. The learned counsel for the first and second respondents, who on the basis of specific instruction received from the respondents, submitted that the above respondents, who are the de facto complainants/injured do not intend to proceed any further against the petitioners and they have no grievance against them. CrI.M.C.No.4685 of 2014 :-3-:

6. I have carefully considered the above submissions of the respective counsel. I have verified the documents and materials produced along with the above petition. In the given facts and circumstances of the case and especially in the light of the settlement arrived between the parties to the dispute, the learned Public Prosecutor has also no objection in allowing the above petition.

7. Having regard to the facts and circumstances involved in the case, it can be seen that the offences involved in the above case are only Sections 341,323, 324,354,354A,294(b) read with Section 34 of I.P.C. which are more or less personal in nature and no public interest is involved. It is pertinent to note that though such offences are involved, the real parties to the dispute approached this Court after having amicably settled the matter. From the submission made by the counsel for respondents 1 and 2, it appears to me that the de facto complainants have no further grievance against the petitioners/accused in the light of the settlement arrived by them. In this juncture, it is relevant to note the decision of the Honourable Apex Court reported in Gian Singh v. State of Punjab [2012(4)

KLT108SC)], in which case, the Supreme Court has held as follows:-
Crl.M.C.No.4685 of 2014 :-4-: "57. 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 S.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.. It is further held as follows:- "..... But the criminal cases having overwhelmingly and pre- dominantly 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....."
According to me, in the light of the facts and circumstances involved in the present case and particularly in view of the settlement arrived in the present case, the dictum laid in the above decision is applicable in the present case. Thus, I am of the view that as the parties to the dispute settled the issues Crl.M.C.No.4685 of 2014 :-5-: amicably, it is the duty of this Court to promote and encourage such settlement, instead of compelling the parties to go on with the dispute. It is pertinent to note that since the matter is settled out of court, in the event of proceeding with the trial, there would not have any fruitful prosecution resulting the conviction of the accused, rather the net result would be sheer waste of judicial time and abuse of process of the court and proceedings. Thus, according to me,

following the decisions cited supra, this Criminal M.C. can be allowed granting the relief as sought for. In the result, this Crl.M.C. is allowed, quashing Annexure I final report and all further proceedings in C.C.No.701/2014 on the file of the Judicial First Class Magistrate Court, Payyannur in Crime No.372/2014 of Payyannur Police Station. V.K.MOHANAN, Judge MBS/ Crl.M.C.No.4685 of 2014 :-6-:

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