
(2007) 03 KL CK 0064
In the High Court Of Kerala
Case No : Crl MC No. 584 of 2007

George Palat

APPELLANT

Vs

State of Kerala and Silba Elizabeth

RESPONDENT

Date of Decision : 05-03-2007

Acts Referred:

Penal Code, 1860 (IPC) — Section 320, 482, 498A

Citation : (2007) 03 KL CK 0064

Hon'ble Judges : R. Basant, J

Bench : Single Bench

Advocate : Rinta George, for the Appellant; No Appearance, for the Respondent

Judgement

R. Basant, J.—The petitioner is the accused in a prosecution u/s 498(A) I.P.C. He is the father-in-law of the second respondent herein. Cognizance has been taken on the basis of the final report submitted by the police. The petitioner's son and the first respondent had various disputes regarding the matrimony between them. All those have been settled. To cut a long story short, reference can be made to Annexure-III order whereunder another bench of this Court, while considering the matrimonial case, has issued various directions. One of the directions in that case is that the parties shall report compromise to the investigating officer in this crime and the investigating officer must take appropriate steps to close the matter. That specific direction is available in paragraph 7(4) of Annexure-III order in the matrimonial case.

2. The second respondent has entered appearance before this Court through counsel. The learned Counsel for the petitioner as also the learned Counsel for the second respondent submit that all the disputes between the parties have been settled by now. But unfortunately before the directions in paragraph 7(4) could be complied with, the final report had already been filed and cognizance has been taken by the learned Magistrate of the offences punishable u/s 498(A) I.P.C in crime No. 414 of 2006 of Palarivattom Police Station. Accordingly, C.C. No. 15/07 is registered before the Judicial First Class Magistrate Court-I,

Ernakulam. The offence is not compoundable and in these circumstances, the petitioners are disabled and they cannot file an application for composition u/s 320 Cr.P.C. In these circumstances, the petitioner has come before this Court along with the second respondent to make a prayer that powers u/s 482 Cr.P.C may be invoked to quash the proceedings.

3. I am satisfied from the totality of the circumstances placed before this Court that the matter has been settled between the parties amicably and that the offences allegedly committed by the petitioner has been compounded by the second respondent. If legally permissible, in the light of Annexure-III judgment, I am certainly persuaded to quash the proceedings.

4. The offence u/s 498(A) I.P.C is not compoundable and in these circumstances, Section 320 Cr.P.C appears to stand in the way. But the Supreme Court has considered this situation and in B.S. Joshi and Others Vs. State of Haryana and Another, , it is clearly held that where interests of justice transcend the interests of mere law, the fetter u/s 320 Cr.P.C cannot restrain this Court from invoking the powers u/s 482 Cr.P.C.

5. I am satisfied that this is an eminently fit case where powers u/s 482 Cr.P.C can and ought to be invoked notwithstanding the fetter u/s 320 Cr.P.C. The joint request made by the learned Counsel is hence accepted.

6. In the result, this Criminal Miscellaneous Case is allowed. C.C. No. 15/2007 of Judicial First Class Magistrate Court-I, Ernakulam against the petitioner arising from Cr. No. 414 of 2006 is hereby quashed.