
(2013) 07 KL CK 0150
In the High Court Of Kerala
Case No : Criminal MC.No. 2136 of 2013

Hameed Asbath and Muhammed Riyad	APPELLANT
Vs	
State of Kerala and Raja	RESPONDENT

Date of Decision : 02-07-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Penal Code, 1860 (IPC) — Section 304, 307, 324, 34

Citation : (2013) 07 KL CK 0150

Hon'ble Judges : V.K. Mohanan, J

Bench : Single Bench

Advocate : P.A. Mujeeb, for the Appellant; S. Hyma, Public Prosecutor for R1 and Sri. Anver Basheer, for R2, for the Respondent

Final Decision : Allowed

Judgement

V.K. Mohanan, J.—The above petition is filed u/s 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 Crime No. 348 of 2013 of Kadavanthra Police Station] for the offences punishable under Sections 324, 307 r/w 34 of I.P.C. with a prayer to quash the all other proceedings in annexure A-1, F.I.R. in Crime No. 348 of 2013 of Kadavanthra Police Station as the matter is settled out of court. The allegation in the above case is that on 30.03.2013 at about 11.45 p.m., the accused persons in furtherance of their common intention attacked the de facto complainant and caused injuries on his chest and thus committed the offences punishable under Sections 324 and 304 r/w 34 of I.P.C. The case of the petitioners is that the matter is settled between himself and the second respondent and who is the injured and de facto complainant. The learned Public Prosecutor has pointed out that the offence involved u/s 307 since there is a penetrating injury on the de facto complainant as a result of which the muscles protruded out. But it is relevant to note that the petitioners as well as the second respondent are working together and they are residing in the very same room and now, the case of the petitioners are that the matter is settled out of court.

2. Heard the learned counsel for the petitioners as well as the second respondent. I have also heard the learned Public Prosecutor.

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

4. The learned counsel for the second respondent who on the basis of specific instruction received from the respondent and on the basis of Annexure-III affidavit of the second respondent submitted that the above respondent, who is the de facto complainant does not intend to proceed any further against the petitioners and she has no grievance against them.

5. 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.

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 324, 307 r/w 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 the second respondent, it appears to me that the de facto complainant has 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 Vs. State of Punjab and Another*, . In *Gian Singh's* case, the Supreme Court has held as follows:-

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. According to me, as the parties to the dispute settled the issues 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 CrI.M.C. is allowed, quashing Annexure-A1 F.I.R. and all further proceedings pending against the petitioners in Crime No. 348 of 2013 of Kadavanthra Police Station and all further proceedings thereto.