
(2014) 03 KL CK 0005

In the High Court Of Kerala

Case No : Criminal M.C. No. 1649 of 2014 (D)

Raju and Vijayan

APPELLANT

Vs

State of Kerala and Sugunan

RESPONDENT

Date of Decision : 21-03-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 320 482
Penal Code, 1860 (IPC) — Section 294(b) 323 324 34 452

Citation : (2014) 03 KL CK 0005

Hon'ble Judges : K. Ramakrishnan, J

Bench : Single Bench

**Advocate : S. Rajeev and Sri K.K. Dheerendrakrishnan, for the Appellant;
Sareena George, Public Prosecutor for R1 and Sri Vinod Kumar. C., for R2, for the
Respondent**

Final Decision : Allowed

Judgement

K. Ramakrishnan, J.—This is an application filed by accused Nos. 1 and 2 in Crime No. 128/2014 of Kattappana Police Station to quash the proceedings after recording the compounding entered into between them u/s 482 of Code of Criminal Procedure. It is alleged in the petition that petitioners were arrayed as accused Nos. 1 and 2 in Crime No. 128/2014 of Kattappana Police Station which was registered on the basis of the statement given by the second respondent as de facto complainant alleging offences under Sections 323, 324, 294(b), 452, 506(ii) read with Section 34 of Indian Penal Code. The matter has been settled between the parties. The petitioners as well as the de facto complainant were neighbours and due to the intervention of family members of both parties, the matter has been settled and de facto complainant does not want to proceed with the prosecution as against the petitioners. Since it is in the crime stage, neither the police nor the court will drop the proceedings. No purpose will be served by proceeding with the investigation as well in view of the settlement. So, petitioners have no other remedy except to approach this court seeking the following relief:

To quash all further proceedings in Crime No. 128/2014 of Kattappana Police Station, as it is an abuse of process of court.

2. Second respondent appeared through Counsel and submitted that the matter has been settled between the parties and he does not want to proceed with the prosecution and he had filed an affidavit to that effect.

3. The Learned Public Prosecutor, on instructions, as directed by this court submitted that, there is no other case against the petitioners and they have no criminal antecedent as well but opposed the application on the ground that it is in the crime stage. The Counsel for the petitioners also submitted that in view of the settlement, no purpose will be served in proceeding with the case.

4. It is an admitted fact that on the basis of the statement given by the second respondent Annexure A1 crime was registered as Crime No. 128/14 of Kattappana Police Station against the petitioners alleging offences under Sections 323, 324, 294(b), 452 and 506(ii) read with Section 34 of Indian Penal Code. Now, the matter has been settled between the parties. It is alleged in the petition as well as in the Annexure A2 affidavit filed by the second respondent de facto complainant that they are neighbours and due to the intervention of the family members of both parties, they have amicably settled the issues and now harmony has been restored between them on account of the settlement and he does not want to proceed with the case. Considering the fact that they are neighbours and the matter has been settled, no purpose will be served by allowing the investigation to continue because, even the de facto complainant or the witnesses cited by him are not going to support the investigation officer or co-operate with the investigation.

5. In the decision reported in Gian Singh Vs. State of Punjab and Another, it is held as follows:

The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing in criminal proceeding or F.I.R. 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. 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-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 case, 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 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.

In view of the dictum laid down in the above decision and also considering the fact that the matter has been settled between the parties and it is a dispute arose between the neighbours due to some misunderstanding which has been solved due to the intervention of family members of both parties and their relationship has been restored on account of the same, this court feels that no purpose will be served by proceeding with the investigation and no conviction will be possible as well and it will be only a wastage of time and it is a fit case where the power u/s 482 of Code of Criminal Procedure has to be invoked to quash the proceedings to promote the harmony that has been restored between the neighbours.

So, the application is allowed and further proceedings in Crime No. 128/2014 of Kattappana Police Station as against the petitioners is quashed. Office is directed to communicate this order to the Judicial First Class Magistrate Court, Kattappana to inform the same to the concerned police station for necessary further action in this regard.