

(2022) 10 KL CK 0117

In the High Court Of Kerala

Case No : Criminal Miscellaneous Petitions No. 7052 Of 2022

Sunil Sundar

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 14-10-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482

Indian Penal Code, 1860 — Section 294(b), 323, 324, 326, 427

Citation : (2022) 10 KL CK 0117

Hon'ble Judges : Ziyad Rahman A.A., J

Bench : Single Bench

Advocate : C.R.Jayakumar, Nobel Raju, C.S.Hrithwik, B.Sibi

Final Decision : Allowed

Judgement

Ziyad Rahman A.A., J

1. The petitioner is the sole accused in Crime No.1095 of 2022 of Kottiyam Police Station, which was registered for the offences punishable under Sections 294(b), 323, 324, 326 and 427 of IPC.

2. The prosecution case is that on 06.10.2022 at about 10.00 hours, the petitioner allegedly abused and hit the nose of the de facto complainant who is none other than his father, with a chair. Annexure-A1 is the FIR. The petitioner is already arrested and has been under judicial custody since 08.10.2022. This Crl.M.C. is filed for quashing all further proceedings pursuant to Crime No.1095 of 2022.

3. Heard Sri.C.R.Jayakumar, learned counsel for the petitioner, Sri.C.S.Hrithwik, learned Public Prosecutor for the State and Sri.B.Sibi, learned counsel for the 3rd respondent.

4. The prayer for quashing the proceedings is sought mainly on the ground that the dispute between the parties has been settled. Annexure-A2 affidavit sworn

by the 3rd respondent/de facto complainant is filed along with this CrI.M.C. to substantiate the settlement. In the said affidavit, the 3rd respondent/de facto complainant had specifically acknowledged the aforesaid settlement and also conveyed the no-objection to quash the proceedings against the petitioners herein. The learned counsel appearing for the 3rd respondent/de facto complainant also confirms the same. The learned Public Prosecutor, upon instructions, submitted that the Station House Officer concerned has verified the veracity of the same and found it to be genuine.

5. The allegations would reveal that the dispute is purely private in nature. In such circumstances, by applying the principles laid down by the Honourable Supreme Court in *Gian Singh v. State of Punjab and Another* [(2012) 10 SCC 303], proceedings can be quashed by invoking the powers of this Court under Section 482 Cr.P.C. This is mainly because, on account of the settlement, no fruitful purpose would be served by allowing the prosecution to continue.

6. Even though one of the offences is under Section 326 IPC, considering the fact that the petitioner is the son of the de facto complainant and they are residing together under the same roof, it is only proper that some indulgence be shown in the matter. The de facto complainant stated explicitly before the Police as well as before this Court that, he does not want to prosecute the matter against his son and the complaint happened to be raised by him against his son only because of his mental state at that time. Now it is evident that all the disputes between the petitioner and the de facto complainant have been settled and the cordial relationship has been restored. In such circumstances, I deem it appropriate to invoke the jurisdiction of this Court under Section 482 Cr.P.C to ensure peace and harmony among the family members.

In the result, this CrI.M.C. is allowed, and Annexure-A1 FIR in Crime No.1095 of 2022 of Kottiyam Police Station and all further proceedings pursuant to it, as against the petitioner, are hereby quashed. Since the proceedings against the petitioner are quashed, he shall be released from custody forthwith.