

(2012) 03 KL CK 0031
In the High Court Of Kerala
Case No : Criminal M.C. No. 772 of 2012

T.K. Aboobacker

APPELLANT

Vs

State of Kerala and Another

RESPONDENT

Date of Decision : 13-03-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 245(1), 320(2), 320(8), 482
Penal Code, 1860 (IPC) — Section 420

Citation : (2012) 2 KarLJ 352 : (2012) 2 KLJ 352

Hon'ble Judges : P.S. Gopinathan, J

Bench : Single Bench

Advocate : T. Madhu, for the Appellant; Rajesh Vijayan (PP), for the Respondent

Final Decision : Dismissed

Judgement

P.S. Gopinathan, J.—In this petition u/s 482 of the Code of Criminal Procedure, petitioner, who is the second accused in C.C. 562 of 1995 on the file of the Judicial Magistrate of the First Class - II, Hosdurg, seeks an order to quash all further proceedings against him. The offence alleged is u/s 420 IPC. The plea is that the matter has been settled between the first accused and the complainant and accordingly, the first accused was acquitted u/s 320(8) of the Code of Criminal Procedure as evidenced by Annexure A3 order. The fact that the complainant and the first accused compounded the matter would not enable the second accused to have an order of acquittal u/s 320 (8) of the Code of Criminal Procedure. Neither is he entitled to get an order to quash further proceedings u/s 482 Cr.P.C. In the event the matter is settled between the petitioner and the complainant, the offence being a compoundable one, though with the permission of the court, petitioner is at liberty to file a petition u/s 320 (2) of the Code of Criminal Procedure before the trial court. Learned counsel for the petitioner would further submit that the offence is mainly alleged against the first accused and since the case between the complainant and the first accused is compounded, petitioner is also entitled to an order of acquittal. Having gone

through Annexure A1 complaint, I am not inclined to accept the contention because involvement of the petitioner is specifically pleaded in the complaint. However, it is for the petitioner to seek for compounding u/s 320 (2) Cr.P.C. or to seek discharge u/s 245 (1) or (ii) Cr.P.C. The learned counsel for the petitioner also sought for permission to argue for discharge in absence. That is a matter to be considered by the trial court on appropriate proceedings.

In the result, this petition is dismissed without prejudice to the defence of the petitioner.