
(2015) 04 KL CK 0091

In the High Court Of Kerala

Case No : Criminal M.C. No. 1691 of 2015

Varghese Mammen and Others

APPELLANT

Vs

State of Kerala and Others

RESPONDENT

Date of Decision : 24-04-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 34, 498A

Citation : (2015) 04 KL CK 0091

Hon'ble Judges : K. Ramakrishnan, J

Bench : Single Bench

**Advocate : C.A. Chacko, M.B. Vimalraj and C.M. Charisma, for the Appellant;
M.T. Sheeba, Public Prosecutor, Advocates for the Respondent**

Final Decision : Allowed

Judgement

K. Ramakrishnan, J—This is an application filed by accused Nos. 1 to 3 to quash the proceedings in C.C. No. 638/2014 on the file of Additional Chief Judicial Magistrate Court (Economic Offences), Ernakulam, on the basis of settlement under Section 482 of the Code of Criminal Procedure.

2. It is alleged in the petition that the first petitioner married the second respondent and they were living together as husband and wife. Petitioners 2 and 3 are the father and mother of the first petitioner. There was some misunderstanding arose between them and on account of the same, they started residing separately and the second respondent filed CrI. M.P. 1946/2012 alleging offence under Section 498A read with Section 34 of the Indian Penal Code, which was forwarded to the police by the learned magistrate and on that basis Annexure-A1 first information report was registered as Crime No. 1570/2012 of Ernakulam Town South Police station. After investigation final report was filed and it was taken on file as C.C. No. 638/2014 on the file of the Additional Chief Judicial Magistrate Court (Economic Offences), Ernakulam. Now the matter has been settled between the parties in the mediation held and they have decided to

separate and on account of the settlement, second respondent does not want to prosecute the case. In view of the settlement, there is no possibility of conviction. Since the offence alleged is non-compoundable in nature, they cannot move the lower court for this purpose. So in view of the settlement, conviction is remote. So the petitioner has no other remedy except to approach this court, seeking the following relief:

"This Hon'ble Court may be pleased to quash Annexure-A1 FIR in Crime No. 1570/2012 of Ernakulam Town South Police Station and its further proceedings pending as C.C. No. 638/2014 before the Additional Chief Judicial Magistrate Court (EO), Ernakulam, so as to secure the ends of justice".

3. Second respondent appeared through counsel and submitted that, the matter has been settled and she has no objection in quashing the proceedings. Second respondent has filed Annexure-III affidavit stating these facts.

4. The counsel for the petitioner also submitted that, in view of the settlement, there is no possibility of conviction. So he prayed for allowing the application.

5. The application was opposed by the Public Prosecutor.

6. It is an admitted fact that first petitioner married the second respondent and on the basis of a private complaint filed, which was forwarded to the police, Annexure-A1 crime was registered and after investigation final report was filed and it was taken on file as C.C. No. 638/2014 before the Additional Chief Judicial Magistrate Court (Economic Offences), Ernakulam, alleging offence under Section 498A read with Section 34 of the Indian Penal Code against the petitioners. Now the matter has been settled between the parties evidenced by Annexure-A2, when the case was referred to mediation in M.C. 298/2014, pending before the Family Court, Ernakulam and on that basis they have decided to separate and joint petition for divorce has been agreed to be filed. In view of the settlement, second respondent did not want to prosecute the case and she filed Annexure-A3 affidavit stating these facts and expressing her willingness to quash the proceedings on the basis of settlement. In view of the settlement there is no possibility of conviction, as neither the defacto-complainant nor her witnesses will support the case of the prosecution. Allowing the case to proceed will only amount to wastage of judicial time.

7. Further in the decision reported in *Gian Singh Vs. State of Punjab and Another*, (2012) 9 JT 457 : (2012) 9 JT 426 : (2012) 9 SCALE 257 : (2012) 10 SCC 303 , the Supreme Court has held that, in cases of private disputes and matrimonial disputes which resulted in registering of crime and filing of final report and if the matter has been settled due to the intervention of mediators, then, even if non-compoundable offences have been incorporated, court has to invoke the power under Section 482 of the Code of Criminal Procedure to quash the proceedings in order to honour the settlement and harmony that has been reached among the family members on account of the intervention of the well-wishers of both the parties.

8. Considering the fact that, it is a matrimonial dispute, which resulted in registration of the crime and filing of final report and the matter has been settled between the parties and on account of the settlement, possibility of conviction is remote and allowing the case to proceed will only amount to wastage of judicial time, this court feels that, it is a fit case where the power under Section 482 can be invoked to quash the proceedings to promote the settlement and harmony that has been resulted in the two families due to the intervention of the mediators.

So the application is allowed and further proceedings in C.C. No. 638/2014 (Crime No. 1570/2012 of Ernakulam Town South Police Station) pending before the Additional Chief Judicial Magistrate Court (Economic Offences), Ernakulam, against the petitioners is quashed.

Office is directed to communicate this order to the concerned court, immediately.