
(2025) 01 KL CK 0088

High Court Of Kerala

Case No: Criminal Miscellaneous Petition No. 9876 Of 2024

Ananda Vishnu

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision: Jan. 6, 2025

Acts Referred:

- Code of Criminal Procedure, 1973 - Section 320, 482
- Indian Penal Code, 1860 - Section 406, 498A

Hon'ble Judges: C. Jayachandran, J

Bench: Single Bench

Advocate: Abhijith U., Bharath Krishnan G., E.C.Bineesh, Krishnanunni G.B.

Final Decision: Allowed

Judgement

C. Jayachandran, J

1. B.S.Joshi and Others v. State of Haryana and another [(2003) 4 SCC 675]held that the offence under Section 498A can be quashed by the

High Court exercising its inherent power under Section 482 Cr.P.C (now Section 528 of BNSS, 2023), though such offence is not compoundable

under Section 320. Relying on State of Karnataka v. L. Muniswamy [(1977) 2 SCC 699] ,a two Judges Bench in B.S. Joshi (Supra) held that ends

of justice are higher than ends of mere law, though justice has got to be administered according to laws made by legislature. The fact that there is no

reasonable likelihood of conviction, in the wake of settlement between the parties, was taken stock of. The following findings in B.S.Joshi (supra) are

relevant and extracted here below:

“What would happen to the trial of the case where the wife does not support the imputations made in the FIR of the type in question. As earlier noticed, now she has filed an affidavit that the FIR was registered at her instance due to temperamental differences and implied imputations. There may be many reasons for not supporting the imputations. It may be either for the reason that she has resolved disputes with her husband and his other family members and as a result thereof she has again started living with her husband, with whom she earlier had differences or she has willingly parted company and is living happily on her own or has married someone else on the earlier marriage having been dissolved by divorce on consent of parties or fails to support the prosecution on some other similar grounds. In such eventuality, there would almost be no chance of conviction. Would it then be proper to decline to exercise power of quashing on the ground that it would be permitting the parties to compound non-compoundable offences? The answer clearly has to be in the “negative”. It would, however, be a different matter if the High Court on facts declines the prayer for quashing for any valid reasons including lack of bona fides.”

2. The dictum laid down in B.S.Joshi (supra) was doubted along with that laid down in other cases and referred to and considered by a three Judges Bench of the Hon'ble Supreme Court in Gian Singh v. State of Punjab and another [(2012) 10 SCC 303]. B.S.Joshi (supra), along with other cases, were confirmed by the Supreme Court. It is relevant to note that the subject matter in B.S.Joshi (supra) was specifically with reference to the offences under Section 498A and 406 of the Indian Penal Code.

3. In the facts at hand, petitioners are accused 1 to 3 in Crime No.1581/2023 of Kundara Police Station, Kollam, now pending as C.C.No.1587/2023 before the Judicial First Class Magistrate Court-I, Kollam. As per the final report, the offence alleged is under Section 498A of the Indian Penal Code. The petitioners seek quashment of entire proceedings in the above Calendar Case, on the strength of the settlement arrived at by and between the parties.

4. Heard the learned counsel for the petitioners, learned counsel for the 2nd respondent/defacto complainant and the learned Senior Public Prosecutor.

Perused the records.

5. When this CrI.M.C was moved, this Court directed to record the statement of the defacto complainant. The said direction was complied and the statement was handed over. On perusal of the same, it is clear that the issues between the petitioners and the defacto complainant are settled amicably. The instant CrI.M.C. was filed with the knowledge and consent of the defacto complainant and she is not any more interested to prosecute the matter. The defacto complainant has no objection in quashing the criminal proceedings against the petitioners. That apart, it is noticed that along with this CrI.M.C, an affidavit has been sworn to by the defacto complainant (2nd respondent herein) as Annexure 3, wherein she would unequivocally state that the disputes have been settled out of the Court. The defacto complainant would also swear that she has no grievance against the petitioners and that the affidavit is sworn to on her volition, without any compulsion, whatsoever.

6. In the light of the above referred facts, this Court is of the opinion that the necessary parameters, as culled out in B.S.Joshi (supra) and Gian Singh (Supra), are fully satisfied. This court is convinced that further proceedings against the petitioners will be a futile exercise, inasmuch as the disputes have already been settled. There is little possibility of any conviction in the crime. Dehors the settlement arrived at by and between the parties, if they are compelled to face the criminal proceedings, the same, in the estimation of this Court, will amount to abuse of process of Court. The quashment sought for would secure the ends of justice.

In the circumstances, this CrI.M.C. is allowed. Annexure 2 F.I.R. and F.I.S. in Crime No.1581/2023, Annexure II Final Report and all further proceedings in C.C.No.1587/2023 of the Judicial First Class Magistrate Court-I, Kollam are hereby quashed.