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"EXERCISE OF INHERENT POWER UNDER SECTION 482 OF CODE OF CRIMINAL PROCEDURE, 1973: A STUDY WITH SPECIAL REFERENCE TO HIGH COURT OF KERALA"

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Abstract : Every High Court in India is given supervision over all courts and tribunals within the territory over which it has jurisdiction under Article 227 of the Indian Constitution. The criminal procedure code additionally stipulates that every High Court should oversee lower court proceedings in order to guarantee that matters are handled properly by such courts. Every High Court has been given a number of responsibilities and powers under the "Code" for delivering equal justice to the society. The clause "is a sort of reminder to the High Courts that they are not merely courts in law, but also courts of justice and possess inherent powers to remove injustice," the Allahabad High Court said in one of its judgements dealing with section 482. Let's talk about this idea to comprehend Section 482.

Keywords : Inherent Power, Territory, Jurisdiction, High Court, Criminal Procedure Code

1.1 INTRODUCTION

Section 482 of CrPC, which deals with the inherent powers of the high courts. Such powers can be exercised to secure ends of justice, prevent abuse of the process of any court and to make such orders as may be necessary to give effect to any order under this Code, depending upon the facts of a given case. The court can always take note of any miscarriage of justice and prevent the same by exercising its powers under section 482 of Cr.P.C. These powers are neither limited nor curtailed by any other provisions of the Code. However, such inherent powers are to be exercised sparingly and with caution.

The object and purpose of Section 482 Cr.P.C. has been enunciated by the Supreme Court in *Dinish Dutt Joshi* v. *State of Rajasthan*[1] as follows:

> "The principle embodied in the section is based upon the maxim quando lex aliquid alicui concedit, concedere videtur et id sine quo res ipsa esse non potest. This maxim means that when the law gives to anyone, it gives all those things without which the thing itself would be available".

The Code of Criminal Procedure, 1973 has not given the details of that what exactly constitutes the inherent power of the court. In that sense, the Code is very vague as it does not lay out the grounds on which the foundations of the inherent power of court lay. Consequently, the application of Section 482 of CrPC is a very agitated issue in litigation along with being a strongly debated concept in the legal academic circles.

1.2 REVIEW OF LITERATURE

There have been many studies which have examined the purpose, scope as well as application of the inherent powers of the high courts.

In a paper published in 2009, Dr. Raj Kumar Yadav[2] has examined the legislative and judicial trends in the matter of quashing of First Information Reports. The study has mainly analysed the statutory provisions as well as the judicial pronouncements which have dealt with the scope of the powers of the High Courts in the matter of quashing of FIRs.

K. P. Kylasanatha Pillay[3] has presented the findings of a research study on the inherent powers of the High Court in criminal cases. Only the High Court has inherent powers in India's criminal justice system. When it comes to the theory and philosophy of inherent powers, the distinction between civil and criminal laws is mostly irrelevant. The major focus of the research study was the confusion caused by the concept of inherent powers and their implementation by the High Court. The research work focussed on solving the jurisprudence mystery generated by the functioning of the concept of inherent powers.

In his law journal article J.D.Pinsler[4] examined the source, nature & scope of the inherent powers of the court as well as the relationship between these powers and the court's procedural mechanism. It has often been the view that the inherent jurisdiction of the English court is applicable in Singapore without

[1] (2001) 8 SCC 570

[2] Raj Kumar Yadav, "First Information Report in India: A Study of Legislative and Judicial Trends" 14 *Maharshi Dayanand University Research Journal* 175 (2009).

[3] K. P. Kylasnatha Pillay, *Inherent Powers of the High Court under section 482 of the Code of Criminal Procedure, 1973* (1999) (Unpublished Ph.D. thesis, Cochin University of Science and Technology).

[4] J.D. Pinsler, "The Inherent Powers of the Court" 39 *Singapore Journal of Legal Studies* 1 (1997).

qualification. This assumption must be considered in the light of the jurisdictional developments which have occurred since the 1960s. The article also focused on the willingness of the court to use its inherent powers to ensure a fair & effective process of litigation, and the justification of such a role in the absence, or even in the face, of statutory provision.

In his article Nitish Kaushik[5] has discussed the scope of the inherent powers of the High Court. The author has summarised the various principles and norms which the courts have evolved over the years in the matter of exercise of the jurisdiction under section 482 Cr.P.C.

Debasmita Panda & Rucha Bhimanwar,[6] have analysed the approach taken by the high courts in the matter of quashing criminal proceedings in respect of non-compoundable offences. The study has primarily focussed on the reported judgments of the Supreme Court of India as well various High Courts.

Ranu Purohit[7] has analysed the breadth, extent, and limits of inherent power of the high court with the help of reported judicial decisions of the High courts. The study also examines why the inherent powers are not conferred on courts lower in the hierarchy. The study concludes that the powers are not available to the subordinate courts since the criminal justice system would be thrown into chaos. For historical, jurisprudential, and practical considerations, the inherent powers are limited to the High Court. Nonetheless, the High Courts must work hard to exercise their natural powers without being unpredictable, sloppy, or arbitrary.

As on date, there is not even a single study which has systematically analysed each and every order passed by the Kerala High Court while exercising the jurisdiction under section 482 Cr.P.C. This study is an attempt to fill this research gap by analysing each and every order passed by the Kerala High Court a sequential manner so as to decipher the trends in the exercise of inherent power by the court.

[5] Nitish Kaushik, "Scope of the Inherent powers of the High court under s.482 of Cr.P.C,1973" (April 5, 2013), *available at* SSRN: https://ssrn.com/abstract=2316261orhttp://dx.doi.org/10.2139/ssrn.2316261, last accessed on Aug 25, 2022.

[6] Debasmita Panda and Rucha Bhimanwar, "Quashing of a Criminal Proceedings in Respects of Non-Compoundable Offences on the Basis of Compromise", 4, *Supremo Amicus* 146 (2018), *available at* https://supremoamicus.org/wp-content/uploads/2018/06/v4g16.pdf , last accessed on Aug 25, 2022.

[7] Ranu Purohit, Savitribai Phule Pune University (SPPU), "*The scope of Inherent powers of High Court under S.482, the code of criminal procedure,1973*". (June 18, 2015).

1.3 STATEMENT OF PROBLEM

The power conferred on High Courts through Section 482 Cr.P.C. is essential for the administration of the criminal justice system. When several cases are brought to the High Court challenging the legality of proceedings pending before the trial courts, the High Court should be very careful about getting in the way of how criminal justice system works. The action taken by the trial courts are frequently contested by those who have been charged with crimes. There is no trial court case that is immune from the jurisdiction of the High Court. This does not mean that the High Court must always exercise the inherent power favourably. The Supreme Court has time and again reminded that though the inherent jurisdiction of the High Court under Section 482 Cr.P.C. is very wide, it has to be exercised sparingly, carefully and with caution and only when such exercise is justified. Time and again the Supreme Court has reminded that the High Courts should exercise inherent powers sparingly, carefully and with caution and only when such exercise is justified There have been many instances where the high courts have exceeded their jurisdiction under section 482 Cr.P.C. Exceeding the jurisdiction under section 482 Cr.P.C. can have serious implications for the overall administration of criminal justice.

1.4 SIGNIFICANCE OF THE PROBLEM

Inherent powers are exercised by the high courts while considering petitions filed under section 482 Cr.P.C. In Kerala High Court petitions filed invoking the power under section 482 Cr.P.C. are number as Criminal Miscellaneous Cases (Crl.M.Cs). The number of Crl.M.Cs filed in Kerala High Court is increasing every year. In 2018, 8965 Crl.MCs were filed in the Kerala High Court. This number arose to 9336 in the year 2019. In 2020 and 2021 the number was low owing to the disruptions caused by the Covid pandemic. As on 30th June 2022, 4325 Crl.M.Cs have been filed in the Kerala High Court. Considering the fact that the number of Crl.M.Cs filed in Kerala High Court is increasing exponentially it is very important that we examine how the Kerala High Court has fared in the matter of disposal of Crl.M.Cs.

1.5 OBJECTIVES OF THE STUDY

Today the inherent power of the High Courts is a key component of judicial activism. The power conferred on High Courts through Section 482 Cr.P.C. is essential for the administration of the criminal justice system. When several cases are brought to the High Court challenging the legality of proceedings pending before the trial court, the High Court should be very careful about getting in the way of how criminal justice system works. The action taken by the trial courts are frequently contested by those who have been charged with crimes. There is no trial court case that is immune from the jurisdiction of the High Court. This does not mean that the High Court must always exercise the inherent power favourably. The Supreme Court has time and again reminded that though the inherent jurisdiction of the High Court under Section 482 Cr.P.C. is very wide, it has to be exercised sparingly, carefully and with caution and only when such exercise is

justified. In this background this study is an attempt to examine and evaluate the trends and patterns in the exercise of inherent power by the High Court of Kerala. More particularly this study examines whether a consistent approach has been followed by the High Court in the matter of exercise of inherent power and whether such a power has been exercised only where it is really justified.

1.6 RESEARCH QUESTIONS

- What is the scope of the inherent power of the High Court under Section 482 Cr.P.C?
- Which are the circumstances in which the inherent power is exercised by the High Courts?
- What are the various purposes for which petitions under Section 482 Cr.P.C. are filed in the High court of Kerala?
- What has been the approach of the High Court of Kerala while disposing the petitions filed under Section 482 Cr.P.C.?
- How liberally has the power to quash First Information Report been exercised by the High Court of Kerala?
- What has been the approach of Kerala High Court in the matter of quashing proceedings in respect of offences which are essentially non-compoundable on the ground that the parties have amicably settled the dispute?

1.7 HYPOTHESIS

The Kerala High Court has followed a liberal approach in the matter of disposal of Crl.M.Cs and it has adopted a consistent approach in the matter.

1.8 DESCRIPTION OF RESEARCH DESIGN AND PROCEDURES USED

A mixture of quantitative and qualitative methods has been employed in connection with this project study. A quantitative assessment of data relating to filing and disposal of the first 250 Crl.M.Cs filed in 2022 has been done so as to understand (a) the purposes for which Crl.M.Cs were filed i.e., whether it was to quash an FIR/Final Report/Proceedings or whether it was filed seeking some other direction; (b) the districts from which proceedings have originated; (c) whether the Crl.M.C. was filed after or before the filing of the final report under section 173; (d) the offences involved in the original proceedings; (e) the judge who has disposed the Crl.M.C; (f) Outcome of disposal i.e., whether the Crl.M.C was allowed/dismissed/resulted in some other direction.

The orders passed by the Kerala High Court in the first 250 Crl.M.Cs filed in 2022 have been analysed qualitatively so as to understand whether a consistent approach has been followed in the matter of disposal of Crl.M.Cs.

1.9 SOURCES OF DATA

Data for the purpose of the study has been sourced from the official website of Kerala High Court. The filing details as well as orders/judgments passed in each Crl.M.C has been sourced from the case status tab in the official website of High Court of Kerala.

1.10 UNIVERSE AND SAMPLING PROCEDURES

Universe of the study includes the Crl.M.Cs filed in the Kerala High Court. Due to limitations of time and resources this project study has taken a sample of 250 Crl.M.Cs filed in High Court of Kerala.

1.11 METHODS AND INSTRUMENTS OF DATA GATHERING

The researcher relied on 'case status' tab in the website of High Court of Kerala. In the case status page the nature of proceedings i.e., Crl.M.C. was selected and thereafter the researcher sequentially entered numbers 1 to 250 against the year 2022. The result page obtained after each entry contained the basic details of the Crl.M.C.. This page was analysed to obtain the data relating to various parameters. Thereafter the judgment/order passed in the Crl.M.C. was downloaded and analysed.

1.12 STATISTICAL TREATMENT

Researcher entered the data collected into Microsoft Excel and thereafter the said data was used for the purpose of interpretation.

1.13 LIMITATIONS OF THE STUDY

As stated earlier the number of Crl.M.Cs filed in Kerala High court is very high. Till the end of June 2022, 4325 Crl.M.Cs have been filed in the Kerala High Court. Due to paucity of time and resources this study has analysed only the first 250 Crl.M.Cs filed and registered in the Kerala High Court.

1.14 SCHEME OF CHAPTERS

The research project is organised into four chapters:

Chapter 1 entitled as 'Introduction', consist of a brief introduction about the topic, 'Literature Review' includes the result of previous studies of different scholars regarding the topic, the objective of the study,

importance of the study, scope of the study, the limitation of the study and chapterisation are all included in Chapter 1 of the introduction section.

Chapter 2 named as 'Theoretical framework/conceptual framework' provides a clear view about the scope and extent of inherent power of high court under section 482 of code of criminal procedure are discussed.

Chapter 3 In this chapter, 'Data Analysis' is discussed, it consists of the analysis of data sourced from the official website of Kerala High Court. The filing details as well as orders/judgments passed in each Crl.M.Cs has been sourced from the case status tab in the official website of High Court of Kerala. The orders passed by the Kerala High Court in the first 250 Crl.M.Cs filed in 2022 have been analysed qualitatively so as to understand whether a consistent approach has been followed in the matter of disposal of Crl.M.Cs are all discussed in this chapter.

Chapter 4 deals with the Conclusions, Findings and Suggestions.

CHAPTER II

SCOPE AND EXTENT OF INHERENT POWER OF HIGH COURT UNDER SECTION 482 OF CODE OF CRIMINAL PROCEDURE

2.1 INTRODUCTION

All courts, whether civil or criminal, posses, in the absence of any express provision, all such powers as are necessary to do the right and to undo a wrong in the course of administration of justice. This is on the basis of the principle *quando lex aliquid alicue concedit, concedere videtur id sine quo res ipsa esse non potest* which means 'when the law gives a person anything, it gives him that without which it cannot exist'.[8]

The idea of inherent powers depends on making a distinction between powers that are expressly granted by the constitution or by statutes and those that a government, a constitutional functionary, or a single officer of government, possesses implicitly, whether because of the nature of sovereignty or due to a permissive interpretation of the constitution or a law's language. The Black's law dictionary defines it as "powers over and beyond those explicitly granted in the Constitution or reasonably to be implied from the express grants." Webster's new world dictionary defines the inherent power as "a power that must be deemed to exist in order for a particular responsibility to be carried out."

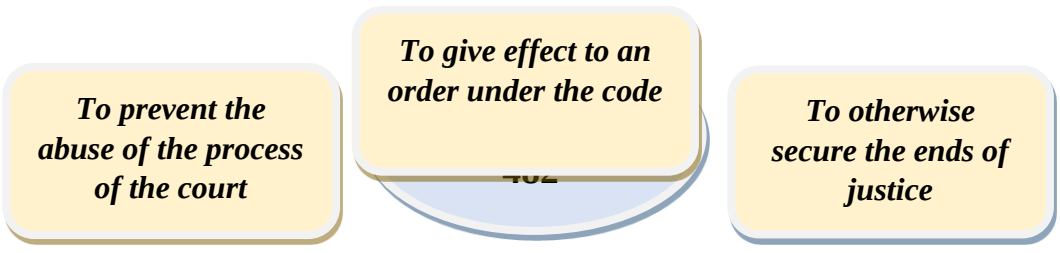
[8] *Minu Kumari* v. *State of Bihar*, (2006) 4 SCC 359

2.2 SECTION 482 Cr.P.C.

Section 482 of the Code of Criminal Procedure, 1973 deals with the inherent power of the high court. It reads:

> **Saving of inherent power of High Court:-** Nothing in this Code shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Code, or to prevent abuse of any process of any Court or otherwise to secure the ends of justice.

Three circumstances are listed in section 482 Cr.P.C. that allow the High court to employ its inherent powers, including (i) carrying out a code-mandated order, (ii) guarding against misuse of the legal system, and (iii) generally advancing the interests of justice. The three requirements are not mutually exclusive; rather, their application would inevitably result in overlap. For instance, it is impossible to distinguish between preventing abuse of the legal system and achieving justice's purposes; in reality, preventing such abuse would serve only to secure the ends of justice only. It also serves to secure the goals of justice to carry out an order made pursuant to the code. The scope of "securing the goals of justice" is obviously a fairly broad term that encompasses the first two requirements as well. A rigid regulation that would control how the court would employ its inherent powers cannot be established and is neither desired nor attainable.[9] The High Court's authority is unquestionably very broad and unrestricted under the aforementioned paragraph. Ex debito justitiae must be used sparingly, deliberately, and sensibly in order to carry out true and substantive justice, for which the court is the only institution that exists.[10] The High court hasn't received any new authority as a result of the inclusion of this clause; it already had those powers. Additionally, it does not grant any additional powers. Only that the court's inherent powers shall be protected is stated in this clause. The old Cr.P.C of 1898 had a section 561-A that is equivalent to section 482 of the Cr.P.C. With regard to the provisions of the old Cr.P.C. of 1898, the 1973 Cr.P.C. simply changed the sections number from 561-A to 482 without altering anything from what was provided in the section.



[9] *Jefrey J. Deirmeir v. State of W.B.*, (2010) 6 SCC 243 at 251

[10] *Ibid*

2.3 BASIC PRINCIPLES

The Indian courts have often ruled that the scope of the inherent powers of the High Court cannot be constrained, cabined, or limited to certain cases that have already been resolved. As a result, these powers must remain flexible and not be in any way restrained, as was intended by parliament. However, Indian courts have also issued a warning against overusing this authority. In *R.P. Kapoor* v. *State of Punjab*[11] the Supreme Court speaking through Justice Gajendragadkar observed that, in general, a criminal proceeding against an accused person must be tried under the general provisions of the Code, so the High Court should be reluctant to quash the proceeding at an interlocutor. The case involved the High Court seeking to use its inherent powers to stop the criminal proceedings. This statement was made while stating the well-established fact that the High Court, in the exercise of its inherent powers, can quash a criminal case in order to accomplish the objectives of justice or prevent misuse of any court's process.

2.4 WRIT PROCEEDINGS UNDER ARTICLE 266/227

The main distinction between Section 482 of the Code and Article 226 of the Constitution is that Section 482 only applies to cases or procedures involving the Code and cannot be used in other matters, whereas Article 226 grants the High Court more discretion to exercise than Section 482 of the Cr.P.C. A writ can be issued against the State in any circumstance. A similar provision is included in Article 227, which grants the High Court the authority to preside over all courts within the region within its purview. A judicial as well as an administrative authority of supervision is granted by this article. Therefore, this provision provides the High Court broad authority to ensure that the procedures of the courts below it are not misused.[12] A writ petition under Articles 226 and 227 may be used to request a directive that may be granted under Section 482 of the Code. The High Court has frequently held the position that any ruling can be challenged through a writ procedure without affecting the High Court's inherent powers.

2.5 EXERCISE OF INHERENT POWERS DIFFERS FROM APPEAL AND REVISION

The High Court's inherent jurisdiction is not part of the ordinary litigation process. The court does not serve as an appeals or revisions court when using its section 482 authority. Statutes were used to create the appeals and revisions processes; they were not intended to be a part of the court's inherent authority. When exercising its inherent authority, the High Court would not review the evidence in the same way that it did if the case had come before the court via statutory appeal. The Supreme Court held that the High Court

[11] AIR 1960 SCC 866
[12] *Pepsi Food Ltd.* v. *Special Judicial Magistrate*, (1998) 5SCC 749

clearly erred in admitting the second revision application under section 482[13] in the case where a Sessions Judge had dismissed the revision application against the order of the judicial magistrate and the High Court had entertained the second revision application by the same party barred by section 397 (3) of the Cr.P.C. The High Court's decisions made while acting under its inherent authority are not subject to legislative appeal. Under Article 136 of the Constitution, the affected party may file a special leave petition with the Supreme Court in opposition to the High Court's decision.

2.6 OTHER DIMENSIONS OF SCOPE OF INHERENT POWERS

There are mainly three purposes for which the inherent power can be exercised. They are:

(1) To give effect to an order passed under Cr.P.C

(2) To prevent abuse of the process of any court

(3) To otherwise secure the ends of justice.

Even though the inherent jurisdiction of the High Court under Section 482 Cr.P.C. is very wide, it has to be exercised sparingly, carefully and with caution and only when such exercise is justified.[14] The High Court can and must utilise its inherent power under section 482 Cr.P.C. only in situations where it is satisfied that an order passed under the Code would be rendered ineffectual, that any court's process would be abused, or that the goals of justice would not be attained.

Ordinarily, barring a few exceptions, the following principles have been followed by the courts in relation to the exercise of inherent power:

(a) That the power is not to be resorted to if there is a specific provision in the Cr.P.C. for redress of the grievance of the aggrieved party;

(b) That it should be exercised very sparingly to prevent abuse of process of any court or otherwise to secure the ends of justice;

(c) That it should not be exercised as against the express bar of law engrafted in any other provision of the Code.

The inherent powers do not confer an arbitrary jurisdiction on the High Court to act according to whim or caprice. The inherent power contemplated by section 482 has to be exercised sparingly, carefully and with caution and only where such exercise is justified by the tests specifically laid down in the section.[15] Exercise of power under Section 482 Cr.P.C. is not the rule but an exception.[16]

[13] *Dharampal* v. *(Smt.) Ramshri*, (1993) 1 SCC 435

[14] *R. P. Kapur* v. *State of Punjab*, AIR 1960 SC 866; *State of Punjab* v. *Kasturi Lal and others*, AIR 2005 SC 4135; *Monica Kumar* v. *State of Uttar Pradesh*, (2008) 8 SCC 781.

[15] *Supra* note 12.

[16] *Som Mittal* v. *Government of Karnataka*, (2008) 3 SCC 753

The majority of cases involving the assertion of inherent rights are brought in an effort to have the criminal proceedings interrupted at any point, so it is important to thoroughly comprehend these claims. In *R.P.Kapoor* v. *State of Punjab*[17], the Supreme Court listed some of the types of requests for the dismissal of criminal proceedings that might warrant the High Court exercising its inherent authority to do so:

> (i)The High Court would be justified in quashing the proceeding on that ground if the criminal proceeding in question relates to an offence that an accused person is accused of having committed and it is clearly evident that there is a legal barrier to the institution or continuation of the said proceeding.
>
> (ii)Cases arising under this category, for instance, might be provided by the absence of the necessary sanction.
>
> (iii)There may also be situations in which the First Information Report or complaint's allegations, even if taken at face value and accepted in their entirety, do not constitute the alleged offence. In these situations, there is no need to consider the value of the evidence; one must simply determine whether the alleged offence is disclosed by reading the complaint or the First information Report.

In *Pepsi Food* v. *Special Judicial Magistrate*[18], the Supreme Court held that even though the magistrate can discharge the accused at any point during the trial if he believes the charges are without merit, this does not preclude the accused from filing a petition with the High Court under section 482 to have the complaint dismissed if it does not allege that the accused committed a cognizable offence against them. Therefore, the court determined that the High Court's ruling refusing to dismiss the case on the grounds that the accused had access to alternative remedies under the code was improper.

After reviewing a number of prior Supreme Court rulings on the subject, the Supreme Court once again reaffirmed the factors necessary for the dismissal of a criminal case in *Indian Oil Corporation* v. *NEPC India Ltd*[19]. The following were the relevant principles that the court so declared:

(i) A complaint can be quashed where the allegation made in the complaint, even if accepted in their totality and taken at face value, do not, on their own, establish an offence or establish the guilt or innocence.

(ii) A complaint may also be quashed when there has been an obvious misuse of the legal system, such as when it is determined that the criminal case was started with the intent to hurt or exact revenge, or when the charges are ridiculous and improper

[17] *Supra* note 11
[18] *Supra* note 12
[19] (2006) 6 SCC 736

(iii)The ability to quash, however, may not be utilised to stop or thwart a valid investigation. Use the power wisely and with great caution.

(iv)The legal elements of the alleged offence need not be described in detail in the complaint. The proceedings should not be thrown out if the complaint has all the necessary factual information, this is true even if some elements have not been described in great detail. Only when the complaint is so devoid of even the most basic

facts that are absolutely necessary for proving the offence is it warranted to quash the complaint.

(v) A given set of facts may point to: (a) a civil wrong that is also a criminal offence; (b) a criminal offence that is just a civil wrong; or (c) both a civil wrong and a criminal offence. A business deal or a legal issue may also contain a criminal offence, in addition to providing grounds for seeking relief under civil law. The mere fact that the complaint relates to a commercial transaction or breach of contract for which a civil remedy is available or has been used does not by itself constitute a ground to dismiss the criminal proceedings because the nature and scope of civil proceedings differ from those of criminal proceedings. If a criminal offence is revealed by the complaint's accusations, that will be the test.

2.6.1. Exercise of inherent power to direct registration of fir

In many cases, the petitioner would approach the High Court praying for a direction to the state to register the case if the police had not done so. However, the Apex Court has shown its displeasure with this practise. In *Zakir Vasu* v. *State of U.P.*[20], it was held that the High Court should not support this practise and should typically decline to intervene in such matters, leaving the petitioner to pursue his alternative remedies before the relevant police officers first under sections 154(3) and section 36 Cr.P.C. and, if that doesn't work, by approaching the concerned magistrate under section 156(3). Keeping in mind the fact that inherent powers must be used sparingly and by way of abundant caution.

2.6.2 Inherent Powers are not to be a factor in post-conviction appeals

In *Arun Shankar Shukla* v. *State of U.P*[21], the Supreme Court took seriously the fact that the High Court had, in response to a section 482 petition, stayed both further proceedings against the accused and the non-bailable warrant that the trial court had issued against him due to his absence from court on the day of verdict after the accused had been found guilty and was awaiting the order of sentence to be passed on him. The Supreme Court ruled that the orders issued by the High Court were unlawful and expressed displeasure that

[20] 2008 AIR SCW 309
[21] (1999) 6 SCC 146

they were issued under section 482 rather than directing the convict to appear in court for further proceedings and disregarding the fact that the accused will have the right to appeal even after being sentenced.

2.6.3 No Power under section 482 to review its judgement

The Supreme Court ruled in *Hari Singh Mann* v. *Harbhajan Singh Bajwa*[22], that there is no clause in the Criminal Procedure Code that allows the High Court to appeal a decision it made while exercising appellate, revisional, or original jurisdiction. Such a power cannot be used in conjunction with or as a cover for another authority under section 482 of the Cr.P.C.

2.6.4 The Order shall be required to resolve the case in accordance with the law

In *State of Rajasthan* v. *Ravi Shankar Srivastava*[23], the Supreme Court struck down the portion of the High Court's ruling issued in accordance with section 482 of the code that forbade the state from taking any negative or punitive action against the petitioner as a result of the FIR that was filed. According to the Supreme Court, making such a decision was completely unnecessary to resolve the dispute.

2.7. OTHER ASPECTS

The High Court can in the exercise of its inherent power expunge remarks made by it or by a lower court in respect of any conduct of a person or official if it be necessary to do so to prevent abuse of the process of the court or otherwise to secure the ends of justice.[24]

In *State of Telangana* v. *Habib Abdullah Jeelani*[25] the Supreme Court was called upon to consider the question whether the High Court while refusing to exercise inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) to interfere in an application for quashment of the investigation, can restrain the investigating agency not to arrest the accused persons during the course of investigation. A single Judge of the High court while considering a petition filed under section 482 referred to the FIR and also took note of the submissions of the learned counsel for the petitioners that all the allegations that had been raised in the FIR were false and they had been falsely implicated. Thereafter the Judge expressed his disinclination to interfere in the matter on the ground that it was not appropriate to stay the investigation of the case. However, as a submission had been raised that the accused persons were innocent and there had been

[22] (2001) 1 SCC 169
[23] (2011) 10 SCC 632
[24] *S. K. Viswambaran* v. *Koyakunju*, (1987) 2 SCC 109; *State of Maharashtra* v. *Mahesh Narayan Patil*, 1992 SCC (Cri.) 149; *C. K. P. Assankutty* v. *State*, 1990 Cri.L.J. 362 (Ker HC)
[25] (2017) 2 SCC 779.

allegation of false implication, the Judge thought it would be appropriate to direct the police not to arrest the petitioners during the pendency of the investigation and, accordingly, he issued such a direction. While considering an appeal preferred against the said order the Supreme Court observed that the nature of the order passed by the High Court was something absolutely unknown to the exercise of inherent jurisdiction under Section 482 CrPC and, therefore, it deserved to be axed. The Court expressed its anguish and displeasure at the kind of order passed by the High Court in exercise of jurisdiction under section 482 Cr.PC. in the following terms:[26]

> …… we can only say that the types of orders like the present one, are totally unsustainable, for it is contrary to the aforesaid settled principles and judicial precedents. It is intellectual truancy to avoid the precedents and issue directions which are not in consonance with law. It is the duty of a Judge to sustain the judicial balance and not to think of an order which can cause trauma to the process of adjudication. It should be borne in mind that the culture of adjudication is stabilized when intellectual discipline is maintained and further when such discipline constantly keeps guard on the mind.

This caution has been repeated by the Supreme Court in other cases as well. In 2021 a three Judge Bench of the Supreme Court in *Niharika Infrastructure Pvt. Ltd.* v. *State of Maharashtra*[27] held that while disposing/dismissing a petition under section 482 Cr.P.C. the High Court shall not pass an order of 'not to arrest and/or take coercive steps' either during the investigation or till the investigation is completed and/or till the final report is filed under section 173 Cr.P.C. According to the court when the investigation is in progress and the facts are hazy and the entire evidence is not before the court, the High Court should restrain itself from passing the interim order of 'not to arrest' or 'no coercive steps to be adopted' and the accused should be relegated to apply for anticipatory bail under section 438 Cr.P.C. before the competent court.[28] The court thereafter issued the following guidelines explaining when and where the High Court would be justified in passing an interim order either staying the further investigation in the FIR/complaint or interim order in the nature of 'no coercive steps' and/or 'not to arrest the accused either pending investigation by police/investigating agency or during pendency of the quashing petition under section 482 Cr.P.C. and/or under Article 226 of the Constitution of India.

In *Mohammed Allauddin Khan* v. *State of Bihar*[29], the Supreme Court set aside an order passed by the High Court in exercise of the inherent power under Section 482 Cr.P.C. In exercise of its inherent power the High Court had quashed an order by which the Magistrate took cognizance of a complaint. On perusing the order passed by the High Court, the Supreme Court noted that the High Court did not examine the case with a view to find out as to whether the allegations made in the complaint prima facie made out the offences as alleged in the complaint. According to the Supreme Court the High Court had no jurisdiction to appreciate the evidence of the proceedings under Section 482 Cr.P.C. because whether there are contradictions or

[26] *Ibid*
[27] 2021 LiveLaw (SC) 211
[28] *Ibid*
[29] (2019) 2 SCC (Cri.) 734

inconsistencies in the statements of witnesses is essentially an issue relating to appreciation of evidence and the same can be gone into by the Judicial Magistrate during trial when the evidence is adduced by the parties.

In *Jitender Kumar Jain* v. *State of Delhi and others*[30], the Supreme Court had an opportunity to stress on the distinction between the jurisdiction under section 397 and that under section 482 Cr.P.C. According to the Court, a separate revision petition does not lie before the High Court when one revision petition is dismissed by the Court of Session. Still, the Court of Session is a court subordinate to the High Court and, as such, its proceedings are open to scrutiny by the High Court in the exercise of its jurisdiction under section 482 Cr.P.C.[31]

Very recently in *Registrar General, High Court of Judicature at Madras* v. *The State, Represented by the Inspector of Police, Central Crime Branch, Chennai & Another*[32], a 2 Judge Bench of Supreme Court of India had to deal with a situation where a Single Judge of the Madras High Court, in exercise of the inherent jurisdiction, directed to transfer 864 cases in which the final reports have been filed before the concerned Special Courts for Land Grabbing Cases and to return back the final reports filed by the concerned investigating officers of the respective police stations in order to enable those final reports to be filed before the concerned jurisdictional courts. Advising the High Court to be mindful and conscious about the consequences of passing such orders the Court stated:

> "Though the powers of the High Court under Section 482 of the Code of Criminal Procedure are wide and are in the nature of inherent power yet, the said power cannot be exercised suo moto in a sweeping manner and beyond the contours of what is stipulated under the said section. We hope and trust that the High Courts would be more circumspect before passing such orders which are impugned and set aside in these appeals".

As rightly observed in *Janata Dal* v. *H. S. Choudhary*[33] no hard and fast rule can be laid down in regard to cases in which the High Court will exercise its extraordinary jurisdiction of quashing criminal proceedings at any stage. Basically, if claims in the criminal complaint prima facie establish an offence, the complaint cannot be dismissed.[34] There is no basis for the High Court to intervene where the complaint does reveal the conduct of an offence and there are no conditions to support prima facie that the complaint is frivolous.[35] It is improper[36] to quash proceedings based solely on affidavits submitted by the parties.

[30] (1998) 8 SCC 770
[31] *Ibid*
[32] 2022 Livelaw (SC) 204
[33] (1992) 4 SCC 305.
[34] *Chand Dhavan* v. *Jawaharlal*, (1992) 3 SCC 317
[35] *Dhanalakshmi* v. *Prasanna Kumar*, AIR 1990 SC 494
[36] *Minakshi Bala* v. *Sudhir Kumar*, (1994) 4 SCC 142

2.8 INHERENT POWER AND QUASHING OF FIRS

Very often petitions under Section 482 Cr.P.C. are filed in the High courts to quash First Information Reports registered by the police. In a catena of decisions the Supreme Court has consistently given a note of caution that inherent power of quashing an FIR should be exercised very sparingly and with circumspection and that too in rarest of rare cases. The Supreme Court has also held that the High Court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR and inherent power do not confer an arbitrary jurisdiction on the court to act according to its whims and caprice.

In *Kurukshetra University* v. *State of Haryana*[37], the Apex Court observed:

> It surprises in the extreme that the High Court thought that in the exercise of its inherent powers under Section 482 Cr.P.C. it could quash an FIR. The police had not even commenced investigation into the complaint filed by the warden of the university and no proceedings at all was pending in any court in pursuance of the FIR. It ought to be realised that inherent powers do not confer an arbitrary jurisdiction on the High Court to act according to whim or caprice

It has also been held that the inherent power should not be exercised to stifle a legitimate prosecution.[38] The Observations of the Supreme Court in *Manjula Sinha* v. *State of Uttar Pradesh*[39] are relevant in this scenario. The court held:

> the powers possessed by the High Court under Section 482 of the Code are very wide and the very plenitude of the power requires great caution in its exercise. The court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution. The High Court being the highest court of a State should normally refrain from giving a prima facie decision in a case, where the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the Court and the issues involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material.

[37] (1977) 4 SCC 451
[38] *Janata Dal* v. *H. S. Choudhary and others*, (1992) 4 SCC 305; *State of Madhya Pradesh* v. *Awadh Kishore Gupta and others*, AIR 2004 SC 517;
[39] (2008) 3 SCC (Cri) 271

In *State of Haryana* v. *Bhajan Lal*[40] a two-Judge Bench of the Supreme Court after referring to a catena of decisions, by way of illustration, mentioned the following category of cases wherein the extraordinary power under Section 482 CrPC could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice:[41]

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.

After laying down the above situations the Court clarified that the said parameters or guidelines are not exhaustive but only illustrative. The Court also observed that it may not be possible to lay down any precise, clearly defined and sufficiently channelized and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad cases wherein such power should be exercised.

[40] 1992 Supp. (1) SCC 335
[41] *Ibid*

2.8.1 Quashing of FIR after chargesheet is filed

Even after the prosecution has filed a chargesheet, the High Court has the authority to quash a FIR under Section 482. The parties may also reach an agreement[42]. Even after the investigation, the accused can inform the Court that there is no material evidence against him. Another option for the accused is to plead inherent improbability based on the full facts and evidence gathered against him in the charge sheet. Because the High Court's powers under Section 482 are broad, it can issue an order quashing a FIR under such circumstances.

2.8.2 FIR quashed on the grounds of a Compromise

The FIR can be overturned by the High Court at any time based on a compromise. The complainant and the accused can reach an agreement. Both parties might submit a joint plea for FIR quashing under Section 482 CrPC. Following that, the Court will examine the facts, circumstances, and elements of the case before issuing a quashing order. If the High Court is not pleased with the facts of the compromise, the quashing on the basis of compromise can be denied. If the offence is compoundable and the High Court has declined to quash the FIR, the

parties might go to the Trial Court. If the parties to the process have reached an agreement and sought for the FIR to be cancelled, the High Court can order it to be quashed.

The High Court in *Madan Mohan Abbot* v. *State of Punjab*[43], refused to quash the FIR on the grounds that the offence under section 406 of the IPC is not compoundable. An appeal was filed to the Supreme Court, which concluded that "...it is likely appropriate that in conflicts when the issue is of a purely personal nature, the court should typically accept the terms of compromise even in criminal proceedings..."

In *Parbatbhai Ahir @ Parbatbhai Bhimsinhbhai Karmur* v. *State of Gujarat*[44], the Supreme Court held that power to quash FIR on the basis of a settlement between the offender and the victim can be exercised according to the facts and circumstances of each case and that no category can be prescribed. The High Court must, however, consider the nature and gravity of the offence before exercising such authority. Even if the victim or victim's family and the perpetrator have settled the dispute, heinous and serious crimes like as murder, rape, and dacoity cannot be properly quashed because such crimes are not private in nature and have a significant social impact. It was also stated that offences arising out of commercial, financial, mercantile, civil partnership, or other similar transactions, as well as offences arising out of matrimony and family disputes, where the wrong is primarily private or personal in nature and the parties have resolved their dispute through compromise, FIR can be quashed.

[42] *Sheo Nath Singh v. Sujata*, II (2007) DMC 601

[43] (2008) 4 SCC 582

[44] 2017 SCC Online SC 1189

2.8.3 FIR Quashing in Financial Disputes

When a financial issue is resolved after the parties reach an agreement, quashing the FIR is the natural option. If certain major offences other than economic offences are involved, parties frequently resort to a Compromise Deed and seek the quashing of the FIR. Using the authority provided by Section 482 CrPC, the High Court can issue an order for quashing on the grounds of settlement, taking into account the facts and circumstances of the case.

2.8.4 Second FIR quashed on petition under Section 482 CrPC

A second FIR based on the same facts is not allowed. The second FIR would not be invalidated if the facts and allegations of the earlier FIR differed from the facts and allegations of the second FIR.[45] A person cannot be harassed or accused twice in two FIRs for the same or related crimes, hence the second FIR would be cancelled on a petition under S. 482 CrPC. If the charges in the FIR do not establish a case against the accused or are so ludicrous and fundamentally unlikely that no reasonable person could possibly conclude that there is adequate foundation to proceed against the accused, In such instances, the High Court has the authority to quash the FIR in order to protect the interests of justice and avoid misuse of the court's procedure.[46] The High Court has the ability to quash a FIR or even a complaint under

S.482, CrPC, subject to the limitations and criteria set down in various judgments. However, the High Courts must use this power with caution and only in the most exceptional of circumstances.

2.8.5 Quashing of FIR when investigation has not begun

The High Court cannot quash the FIR if the police investigation has not yet begun and there are no proceedings pending in any court in connection with the FIR.[47] Because the FIR does not reveal any offence, the inquiry cannot be quashed because it might be conducted using other evidence.[48]

2.8.6 FIR disclosing offence

An FIR should only be overturned in the most exceptional of circumstances. When a prima facie case is revealed in a FIR, the FIR cannot be quashed simply because it was filed late. The High Court would not be justified in quashing the initial information report if the FIR discloses the crime. If the facts in the FIR appear to disclose a cognizable offence, the High Court is required to investigate the veracity, reliability, sufficiency, and adequate proof of the facts alleged, as well as to conduct a meticulous examination. It is

[45] *T.T. Antony* v. *State of Kerala*, AIR 2001 SC 2637.

[46] *Arnavaz* v. *Alcobex Metals Ltd*., 2005 CrLJ 610 (612) (Raj)

[47] *State of W.B.* v. *Narayan K. Patodia*, AIR 200 SC 1405

[48] *Suresh Chandra Swain* v. *State of Orissa*, 1988 CrLJ 1175 (Ori)

not necessary at this stage to determine whether all of the ingredients are precisely spelled out in the complaint. The FIR/Complaint cannot be quashed if the petitioner fails to prove that the allegations in the FIR/Complaint do not constitute an offence. When a FIR reveals an offence, it cannot be quashed before the inquiry is completed. If, after considering the charges in light of the oath statement, the ingredients of the offence are revealed and the complaint is not mala fide, frivolous, or vexatious, there would be no grounds for the High Court to intervene When a prima facie case is established, the FIR cannot be quashed under Section 482, CrPC, and the evidentiary value of the statements cannot be evaluated in a petition under Section 482, CrPC. When a FIR reveals the commission of alleged crimes, the accused's denial is insufficient to quashing the FIR. Under S. 482, CrPC, a FIR that discloses a cognizable offence cannot be quashed. The FIR in a case under S.376, IPC would not be invalidated just because the prosecutrix might be embarrassed in the future. Even if the prosecution is mala fide,[49] or the offence is of a technical nature, if the allegations in the FIR constitute an offence, the prosecution cannot be quashed.[50] The High Court cannot use its inherent power under S. 482, CrPC to quash a FIR or police inquiry in response to a Magistrate's order under S.156(3).[51]

Whether or not the accusations in the complaint are true, an order for investigation under Section 156 (3) CrPC is without authority and can be invalidated under Section 482 CrPC/Article 226 of the Constitution.[52] There cannot be a blanket prohibition on the quashing of a proceeding while it is still under investigation. If the High court is convinced that the first information report discloses a cognizable offence and that the continuation of an investigation, based on no foundation would amount to an abuse of power of police, necessitating interference to secure the ends of justice the inherent power will have to be exercised. The High Court will interfere with the investigation only if non-interference would result in miscarriage of justice.[53]

2.8.7 When the power of investigation has been used in a fraudulent manner, the FIR can be quashed.

Even if the First Information Report or its following investigation purports to create a suspicion of a cognizable offence, the High Court has the right to quash if it is concerned that the power of investigation has been misused.[54]

[49] *State of Bihar* v. *P.P. Sharma*, 1991 CrLJ 1438, 1448 (SC)

[50] *Pulgaon Cotton Mills Ltd. v. Maharashtra Pollution Control Board*, 2001 CrLJ 610 (Bom)

[51] *S. Rajendra v. K.A.S. Rama Appaswamy*, 1981 CrLJ 1298 (Kant)

[52] *Guruduth Prabhu v. M.S. Krishna Bhat*, 1999 CrLJ 3909 (Kant)

[53] *Eastern Spinning Mills v. Shri Rajiv Poddar*, AIR 1985 SC 1668.

[54] *Vinod Kumar Sethi v. State of Punjab*, AIR 1982 (P&H) 372 (FB).

2.8.8 Quashing of FIR if allegations do not constitute an offence

The High Court is normally hesitant to interfere with FIR and inquiry, but it can be quashed if the FIR does not disclose components of a cognizable offence.[55] The High Court may, in the exercise of its inherent powers, quash a FIR that contained no facts constituting an offence.[56]

A full bench of Punjab and Haryana High Court has held that there is no blanket bar against the quashing of a first information report and the consequent investigation. It has laid down the following requisite pre-conditions for the exercise of the power-

(i) When the FIR, even if accepted as true, discloses no reasonable suspicion of the commission of a cognizable offence.

(ii) When the materials subsequently collected in the course of an investigation further disclose no such cognizable offence at all;

(iii) When the continuation of such investigation would amount to an abuse of power by the police; and

(iv) That even if the FIR or its subsequent investigation purports to raise a suspicion of a cognizable offence, the High Court can still quash if it is convinced that the power of investigation has been exercised mala fide.[57]

After charge sheet against the accused has been filed and charge has been framed in the case, the question of quashing FIR on petition filed under S. 482 CrPC would not arise.[58]

The power of the High Courts to quash FIRs while exercising its powers under Section 482 CrPC even for offences which are not compoundable under Cr.PC has been settled in a number of judgments. In *Gian Singh* v. *State of Punjab & Anr*.[59], the Supreme Court observed:

> "…. the power of the High Court in quashing a criminal proceeding or FIR 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 Section 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 FIR may be exercised where the offender and the 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

[55] *Mangal chouhan v. State*, 1983 CrLJ 279 (Cal-DB)

[56] *Supra* note 46

[57] *Supra* note 54

[58] *Supra* note 39

[59] (2012) 10 SCC 303

> 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 a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the 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 predominantly civil favour stand on a 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 cases, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and break and continuation of the criminal case would put the 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 the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above questions is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.

Subsequently, in *Narinder Singh & Ors.* v. *State of Punjab & another*[60], the Supreme Court while reiterating its view in *Gian Singh*[61] held:

> Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.
>
> When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure: (i) ends of justice, or (ii) to prevent abuse of the process of any court While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives. Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like

[60] (2014)6 SCC 466
[61] *Supra* note 59

murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for the offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and break and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.

In this context, reference may also be made to *State of M.P.* v. *Laxmi Narayan & others*.[62] In *Laxmi Narayan*[63] the Supreme Court summarised the law as under:

(i) That the powers conferred under S.482 to quash the criminal proceedings for the compoundable offences under S.320 Cr PC can be exercised in cases having overwhelmingly and predominantly the civil character, particularly those arising out of Commercial transactions or arising out of matrimonial relationships or family disputes and where the parties have resolved the entire dispute amongst themselves.

(ii) Such power is not exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not first in nature and have serious impact on society.

(iii) Similarly, such power is not to be exercised for the offence under special statutes like Prevention of Corruption Act or offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

(iv) Offences under section 307 IPC and Arms Act would fall in the category of heinous and serious and therefore are to be treated as crime against society and not against individual alone and not therefore the criminal proceedings for the offence under S.320 IPC or under Arms Act which have a serious impact on society cannot be quashed in exercise of powers under section 482 Cr PC on the ground that the parties have resolved their entire dispute among themselves. However, the high court would not rest its decision merely because there

[62] (2019) 5 SCC 688
[63] *Ibid*

is a mention of section 307 in the FIR or charge framed under the provisions. It would be open to the high court to examine as to whether the mention of section 307 is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under section 307. For this purpose it would be open for the high court to go by the nature of weapons used etc. However, such an exercise by the high court would be permissible only after evidence is collected after investigation and charge sheet is filed during the trial such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in para 29.6 and 29.7 of the decision of the supreme court in Narinder Sing should be harmoniously and to be read as a whole and in the circumstances stated herein.

(v) While exercising the powers under section 482 to quash the criminal proceedings in respect of non-compoundable offences which are private in nature and do not have a serious impact on society on the ground that there is a settlement compromise between the victim and the offender, the high court is required to consider the antecedents of the accused the conduct of the accused, namely whether the accused was absconding how he had managed with the complainant to enter into a compromise etc.

There are several instances where various high courts have quashed criminal proceedings which are inherently of a civil nature on the ground that the settlement between the parties had brought peace in the society and the parties were willing to lead a harmonious life.[64]

In *State of Madhya Pradesh* v. *V. D. Dhruv Gurjar*[65], the High Court in exercise of its powers under Section 482 Cr.P.C. had quashed the criminal proceedings instituted under sections 294 and 307 of Indian Penal Code on the ground that the accused and the complainant have settled the dispute amicably. While considering an appeal preferred against the said order the Supreme Court observed that the High Court erred in quashing the FIR. The Supreme Court took serious note of the fact that the FIR was quashed within a period of three days from the date of filing of the petition. The High Court failed to consider the antecedents of the accused who were facing number of trials for serious offences. While setting aside the order of the High Court the Supreme Court observed that the High Court ought to have been more vigilant and ought to have considered relevant facts and circumstances under which the accused got the settlement deed entered into.

[64] See *Kamleshkumar Mohanji Methana* v. *State of Gujarat*, 2022 LiveLaw (Guj.) 301
[65] (2019) 5 SCC 570

In *Aneesh Gupta & others* v. *State of NCT of Delhi & another*[66], a Single Judge of Delhi High Court while concurring with the opinion expressed in another decision of a coordinate Bench in *Rifakat Ali & Others* v. *State & another*[67] held that in matrimonial cases where settlement has taken place, offence under section 377 of Indian Penal Code can be compromised and First Information Report can be quashed as the parties have to move ahead in life.

2.8.9 Quashing of FIR in matrimonial cases

The Courts in India are now normally taking the view that endeavour should be taken to promote conciliation and secure speedy settlement of disputes relating to marriage and family affairs such as, matrimonial disputes between the couple or between the wife and her in-laws. This has led to a situation where the High Courts are exercising the power under section 482 to quash prosecutions launched invoking section 498A of Indian Penal Code. For instance, in *Gaurav Kumar and others* v. *State and another*[68], the Supreme Court observed:

> India being a vast country naturally has large number of married persons resulting into high numbers of matrimonial disputes due to differences in temperament, life-styles, opinions, thoughts etc. between such couples, due to which majority is coming to the Court to get redressal. In its 59th report, the Law Commission of India had emphasized that while dealing with disputes concerning the family, the Court ought to adopt an approach radically different from that adopted in ordinary civil proceedings and that it should make reasonable efforts at settlement before the commencement of the trial. Further it is also the constitutional mandate for speedy disposal of such disputes and to grant quick justice to the litigants. But our Courts are already overburdened due to pendency of large number of cases because of which it becomes difficult for speedy disposal of matrimonial disputes alone. As the matrimonial disputes are mainly between the husband and the wife and personal matters are involved in such disputes, so, it requires conciliatory procedure to bring a settlement between them. Nowadays, mediation has played a very important role in settling the disputes, especially, matrimonial disputes and has yielded good results. The Court must exercise its inherent power under Section 482 Cr.P.C. to put an end to the matrimonial litigations at the earliest so that the parties can live peacefully.
>
> Since the subject matter of this FIR is essentially matrimonial, which now stands mutually and amicably settled between the parties, therefore, continuance of proceedings arising out of the FIR in question would be an exercise in futility and is a fit case for this Court to exercise its inherent jurisdiction.

[66] 2022 LiveLaw (Del) 869
[67] 2013 (3) RAJLW 1992
[68] 2014 Latest Caselaw 4348 Del

> In the facts and circumstances of this case, in view of statement made by the respondent No.2 and the compromise arrived at between the parties, the FIR in question warrants to be put to an end and proceedings emanating thereupon need to be quashed.

In *Sanchit Mohindra and others* v. *State and another*[69] a two judge Bench of Supreme Court of India after referring to Gian Singh v. State of Punjab, Narinder Singh v. State of Punjab and State of M.P. v. Lakshmi Narayan proceeded to quash criminal proceedings in which the accused stood accused of sections 498A and 377 of Indian Penal Code. The court reasoned as follows:

> An offence under Section 377 IPC is a heinous offence and points to the mental depravity of the accused and hence ought not to be quashed by the High Court on the basis of compromise by exercising its jurisdiction under Section 482 CrPC.
>
> The present case arises out of matrimonial dispute and the allegation has been made by the wife against the husband. The parties have decided to part ways and get ahead in their lives without having any acrimony against each other. In the facts and circumstances of the case, this Court is inclined to exercise its powers under Section 482 CrPC even for an offence under Section 377 IPC on the ground that the dispute is private in nature.
>
> It is made clear that this Court is exercising its powers under Section 482 CrPC to quash an offence of Section 377 IPC on the ground that the parties have compromised the matter with each other only because it arises out of a matrimonial dispute, the allegation has been levelled by wife against her husband of committing an offence under Section 377 IPC and the parties have decided to move ahead in life.

In addition to the abovementioned situations petitions under Section 482 Cr.P.C. are filed for a variety of reasons, including, quashing reports filed under Section 173 Cr.P.C., Quashing proceedings pending in criminal courts. A detailed discussion on the rules and principles governing the application of Section 482 Cr.P.C. is beyond the scope of this study.

[69] Crl.M.C. 600/2021

CHAPTER III

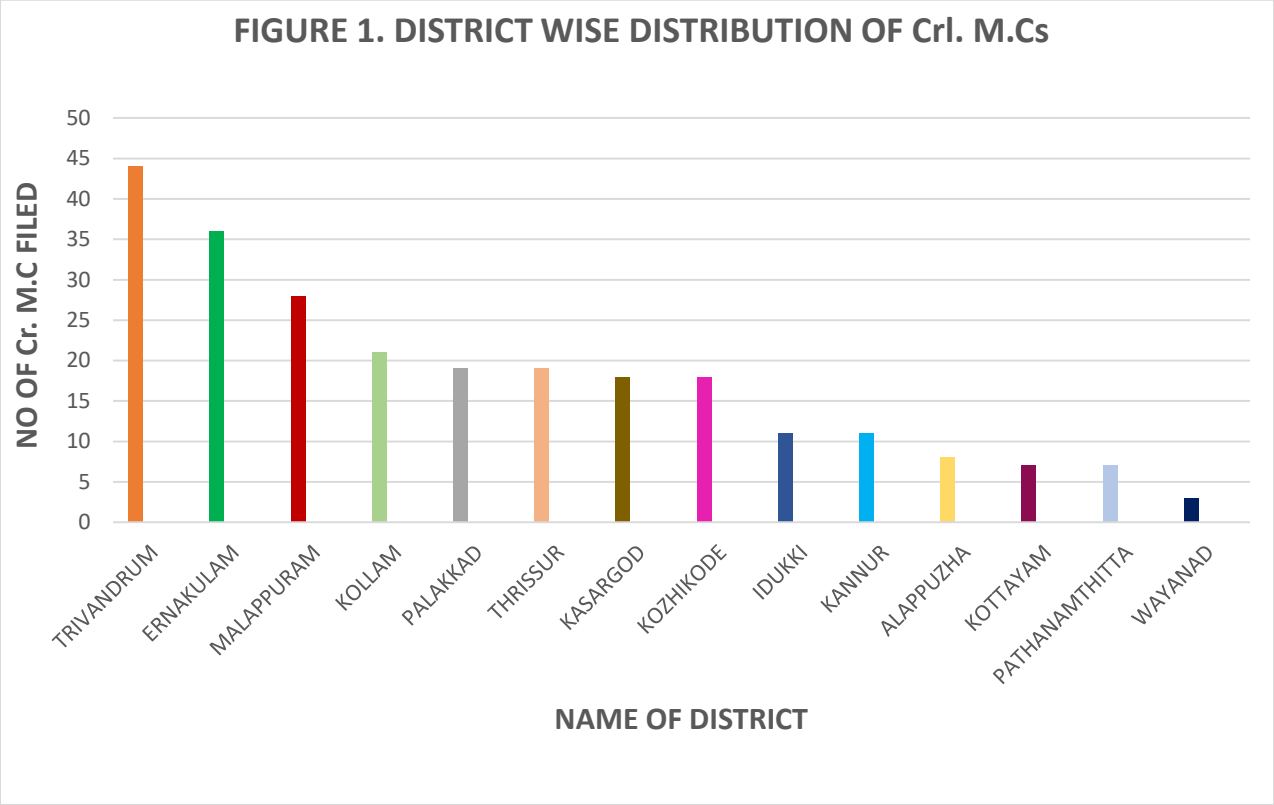
ANALYSIS & INTERPRETATION OF DATA

The orders passed by the Kerala High Court in the first 250 Crl.M.Cs filed in 2022 have been analysed. Due to limitations of time and resources this project study has taken a sample of 250 Crl.M.Cs filed in High Court of Kerala. Out of 250 Crl.M.Cs analysed 75 Crl.M.Cs are found to be still pending in the High Court and only 175 Crl.M.Cs have been disposed.

TABLE 1

DISTRICT WISE DISTRIBUTION OF Crl.M.Cs

NAME OF DISTRICT	NO OF Crl. M.Cs FILED
TRIVANDRUM	44
ERNAKULAM	36
MALAPPURAM	28
KOLLAM	21
PALAKKAD	19
THRISSUR	19
KASARGOD	18
KOZHIKODE	18
IDUKKI	11
KANNUR	11
ALAPPUZHA	8
KOTTAYAM	7
PATHANAMTHITTA	7
WAYANAD	3



Theoretical interpretation: The table contain 2 columns and 15 rows. Columns named as Name of district and No of Crl. M.Cs filed and rows represented the name of district and total no of Crl.M.Cs filed are noted. By examining the graph, we can say that out of 250 Crl.M.Cs analysed the highest no of Crl.M.Cs filed is from Trivandrum district the no of Crl.M.Cs filed is 44. Next is Ernakulam District the no of Crl.M.Cs filed is 36. In Malappuram the no of Crl.M.Cs filed is 28. In Kollam, the no of Crl.M.Cs filed is 21 and in Palakkad and Thrissur district the no cr.m.c filed is 19. In Kasaragod and Kozhikode district the no of Crl.M.Cs filed is 18. In Idukki and Kannur District the no of Crl.M.Cs filed is 11. In Alappuzha district the no of Crl.M.Cs filed is 8. In Kottayam and Pathanamthitta district the no of Crl.M.Cs filed is same in each district is only 7 in number. In Wayanad the no of Crl.M.Cs filed is only 3.

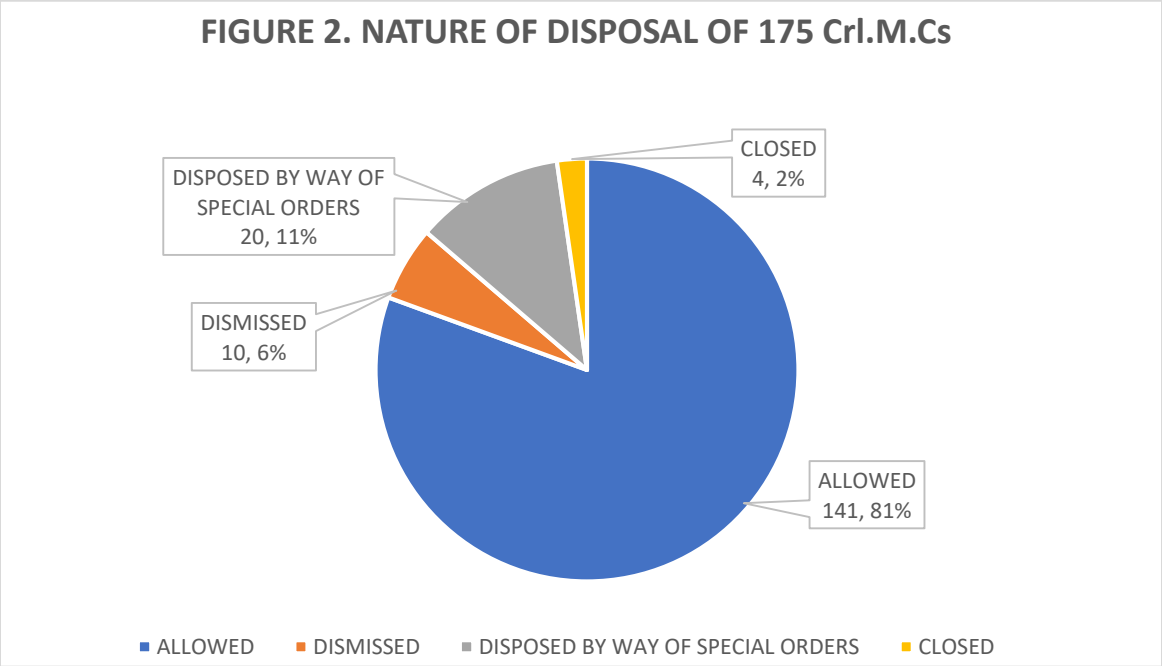
TABLE 2.

NATURE OF DISPOSAL OF 175 Crl. M.Cs

NATURE OF DISPOSAL	NO OF CASES
ALLOWED	141

DISMISSED	10
DISPOSED BY WAY OF SPECIAL ORDERS	20
CLOSED	4

Total: 175



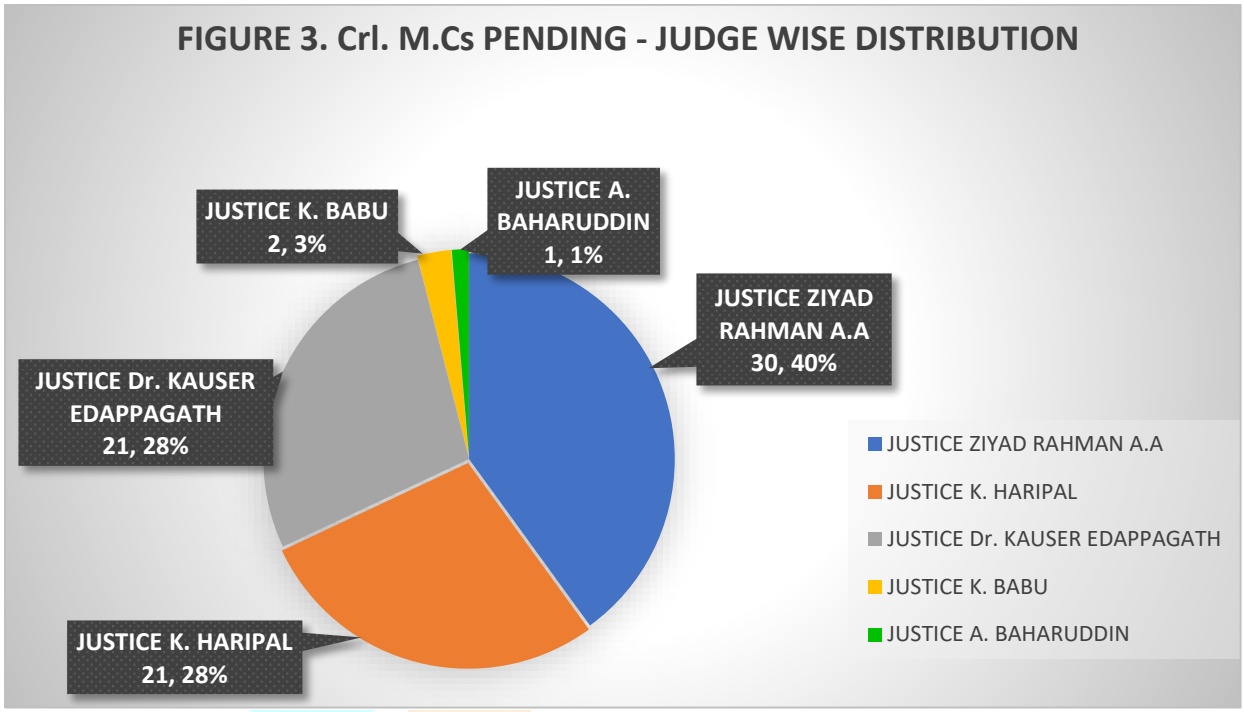
Theoretical Interpretation: As mentioned above out of 250 Crl.M.Cs 75 are still pending in the Kerala High Court and only 175 Crl.M.Cs are finally disposed. Out of 175 Crl. M.Cs that have been disposed 141 Crl. M.Cs were allowed by way of orders in favour of petitioner 10 were dismissed 20 Crl. M.Cs disposed by way of special orders 4 Crl. M.Cs were closed.

TABLE 3.

Crl. M.Cs PENDING – JUDGE WISE DISTRIBUTION

NAME OF JUDGES	LIST OF CASES PENDING
JUSTICE ZIYAD RAHMAN A.A	30
JUSTICE K. HARIPAL	21
JUSTICE Dr KAUSER EDAPPAGATH	21
JUSTICE K. BABU	2
JUSTICE A. BAHARUDDIN	1

Total: 75



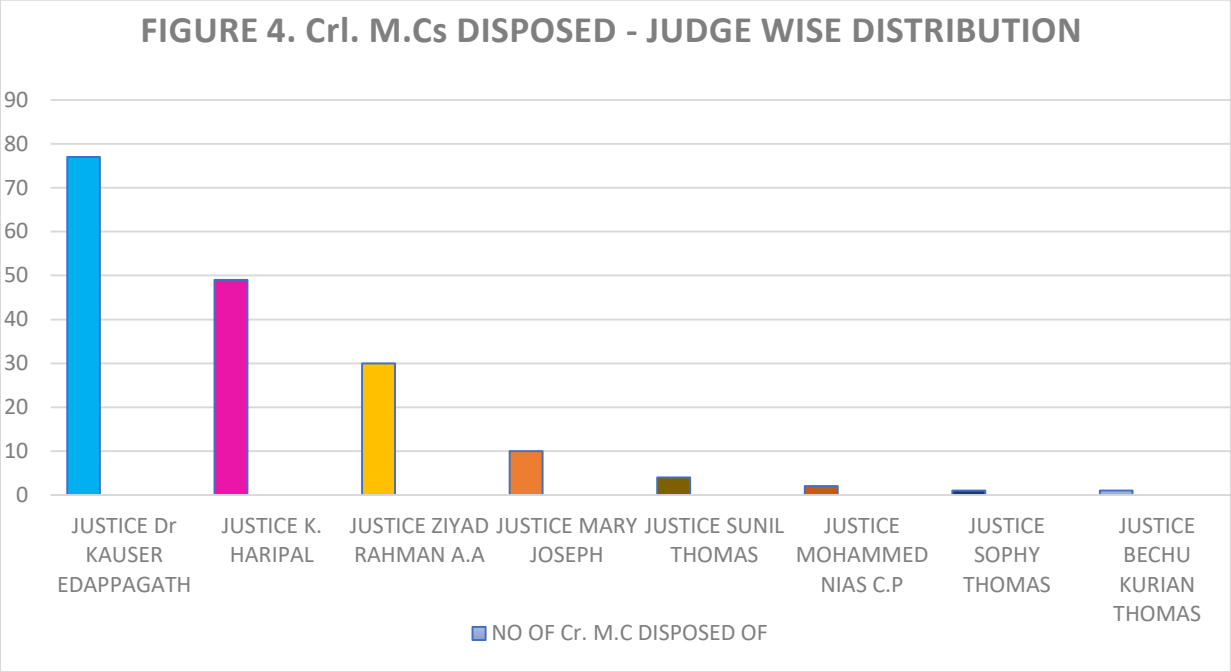
Theoretical Interpretation: Out of 250 Crl. M.Cs that were analysed 75 are still pending 30 have been considered by Justice Ziyad Rahman A.A. 21 Crl. M.Cs each were considered by Justice Dr Kauser Edappagath and Justice K. Haripal. Justice K. Babu and Justice A. Baharuddin few numbers 2, 1 respectively.

TABLE 4.

Crl. M.Cs DISPOSED - JUDGE WISE DISTRIBUTION

NAME OF JUDGES	NO OF Crl. M.Cs DISPOSED OF
JUSTICE Dr KAUSER EDAPPAGATH	77
JUSTICE K. HARIPAL	49
JUSTICE ZIYAD RAHMAN A.A	30
JUSTICE MARY JOSEPH	10
JUSTICE SUNIL THOMAS	4
JUSTICE MOHAMMED NIAS C.P	2
JUSTICE SOPHY THOMAS	1
JUSTICE BECHU KURIAN THOMAS	1

Total: 175



Theoretical Interpretation: Out of 175 Crl. M.Cs that have been disposed 77 have been disposed by Justice Dr. Kauser Edappagath, 49 Crl.M.Cs Disposed by Justice K. Haripal, Justice Ziyad Rahman A.A 30 Crl.M.Cs disposed of, Justice Mary Joseph disposed 10 Crl.M.Cs, Justice Sunil Thomas disposed only 4 Crl.M.Cs, Justice Mohammed Nias C.P disposed only 2 Crl.M.Cs, Justice Sophy Thomas and Justice Bechu Kurian Thomas each were disposed only 1.

RELIEF SOUGHT IN THE Crl. M.Cs

TO QUASH FIR

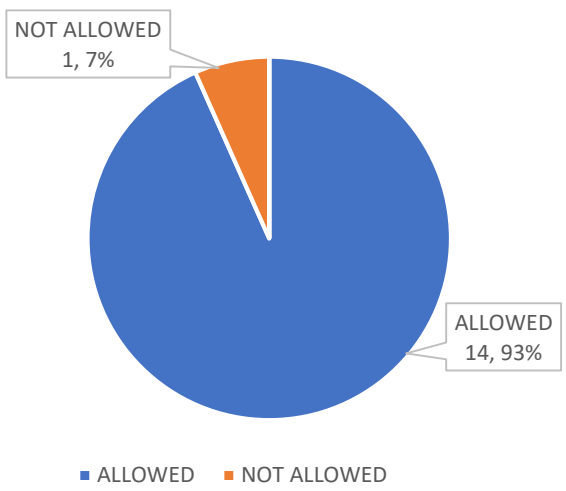
TABLE 5.

Crl.M.Cs FILED FOR QUASHING FIR

NATURE OF DISPOSAL	NO OF CASES
ALLOWED	14
NOT ALLOWED	1

Total: 15

FIGURE 5. Crl.M.Cs FILED FOR QUASHING FIR



Theoretical Interpretation: Out of 250 Crl.M.Cs analysed the total no of Crl.M.Cs filed for quashing FIR is 15 out of 15 Crl. M.Cs 14 were allowed and 1 not allowed.

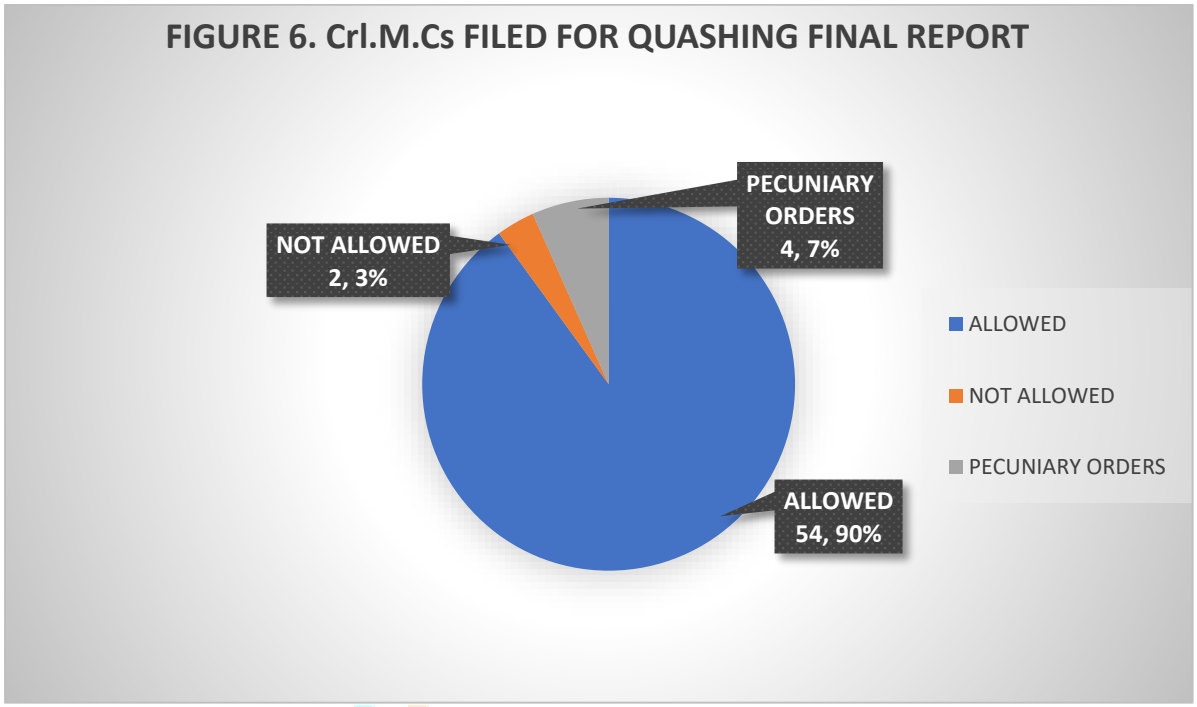
TO QUASH FINAL REPORT

TABLE 6.

Crl.M.Cs FILED FOR QUASHING FINAL REPORT

NATURE OF DISPOSAL	NO OF CASES
ALLOWED	54
NOT ALLOWED	2
PECUNIARY ORDERS	4

Total: 60



Theoretical Interpretation: Out of 60 Cr. M.C filed 54 were allowed, 2 were not allowed and 4 pecuniary orders.

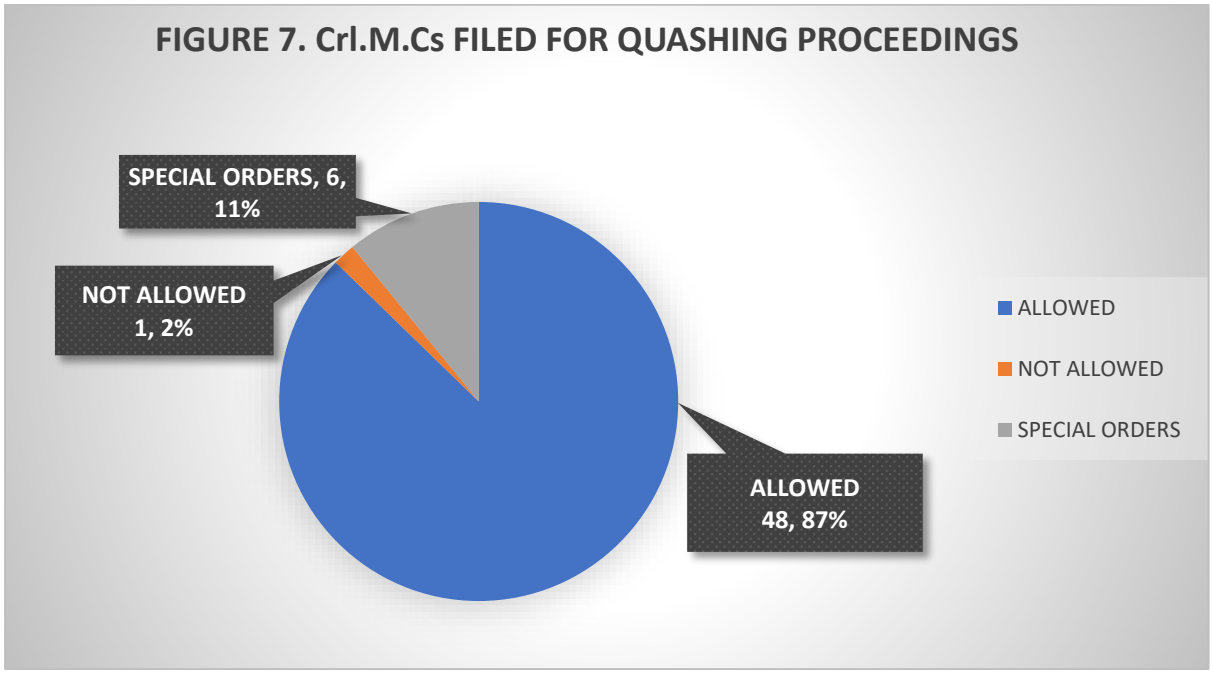
TO QUASH PROCEEDINGS

TABLE 7.

Crl.M.Cs FILED FOR QUASHING PROCEEDINGS

NATURE OF DISPOSAL	NO OF CASES
ALLOWED	48
NOT ALLOWED	1
SPECIAL ORDERS	6

Total: 55



Theoretical Interpretation: Out of 55 Cr.M.C filed 48 were allowed, 1 were not allowed and 6 special orders.

Out of 250 Cr.M.C analysed 130 Cr. M.C filed for the relief sought in the Crl.M.Cs to quash FIR, Final report and to quash proceedings and the remaining 120 Cr.M.C filed for other relief.

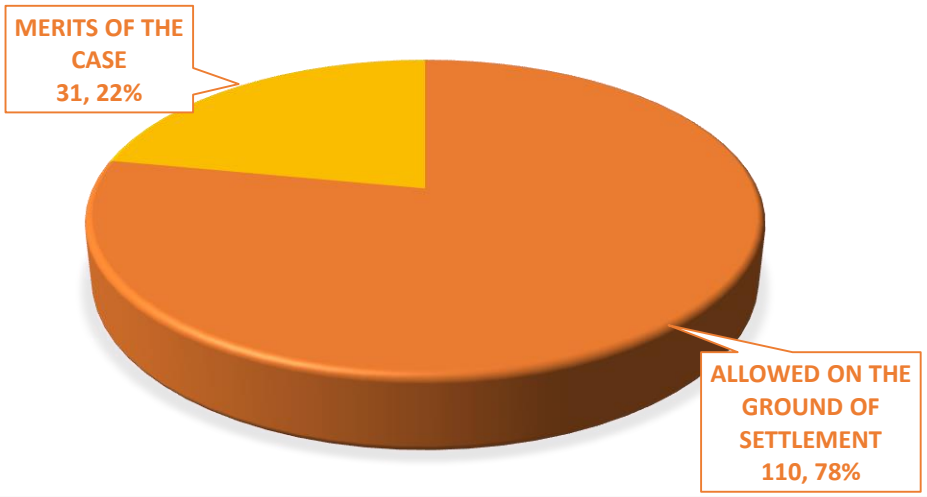
TABLE 8.

Crl.M.Cs ALLOWED ON THE GROUND OF SETTLEMENT BETWEEN THE PARTIES

GROUNDS ON WHICH THE Crl.M.Cs WERE ALLOWED	NO OF CASES
ALLOWED ON THE GROUND OF SETTLEMENT	110
MERITS OF THE CASE	31

Total: 141

FIGURE 8. CRL.M.CS ALLOWED ON THE GROUND OF SETTLEMENT BETWEEN THE PARTIES



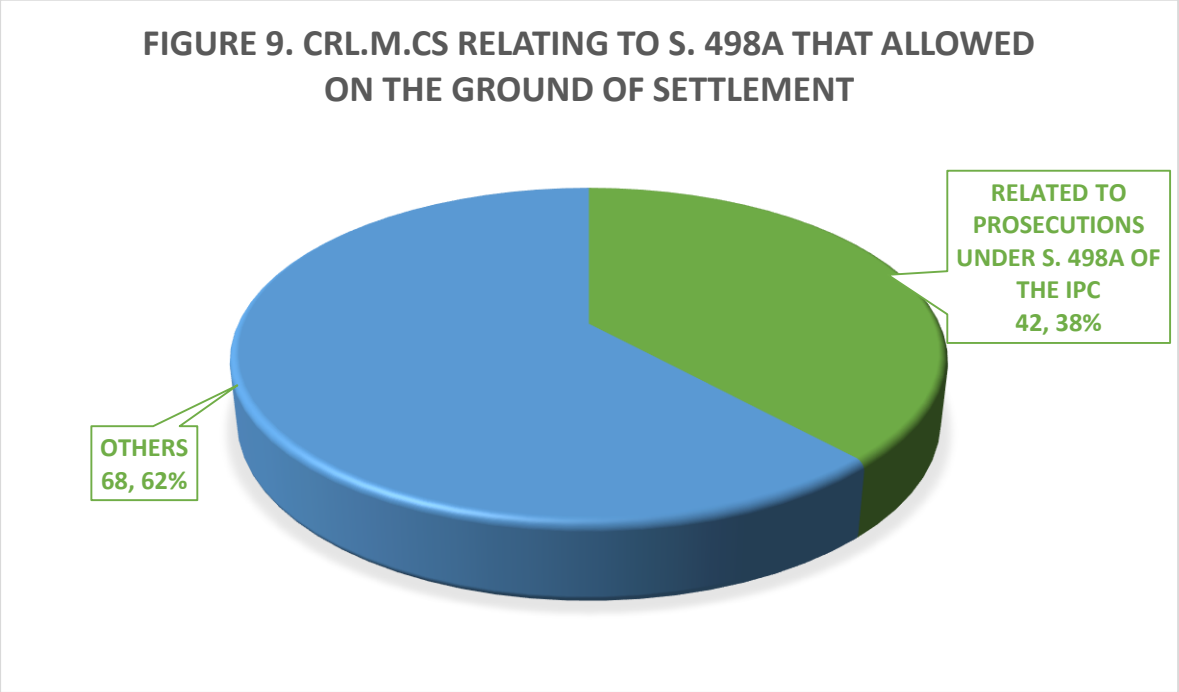
As stated in Table. 2 and Fig. 2 out of 175 Crl.M.Cs that were disposed 141 Crl.M.Cs were allowed. Out of the said 141 Crl.M.Cs that were allowed 110 Crl.M.Cs were allowed on the ground of settlement between the parties. Number of Crl.M.Cs that were allowed on the ground of settlement between the parties comes to 78% of the total no of Crl.M.Cs that were allowed and 62% of the Crl.M.Cs that were disposed.

TABLE 9.

Crl.M.Cs RELATING TO S. 498A THAT ALLOWED ON THE GROUND OF SETTLEMENT

GROUND OF SETTLEMENT	NO OF CASES
RELATED TO PROSECUTIONS UNDER S. 498A OF THE IPC	42
OTHERS	68

Total: 110



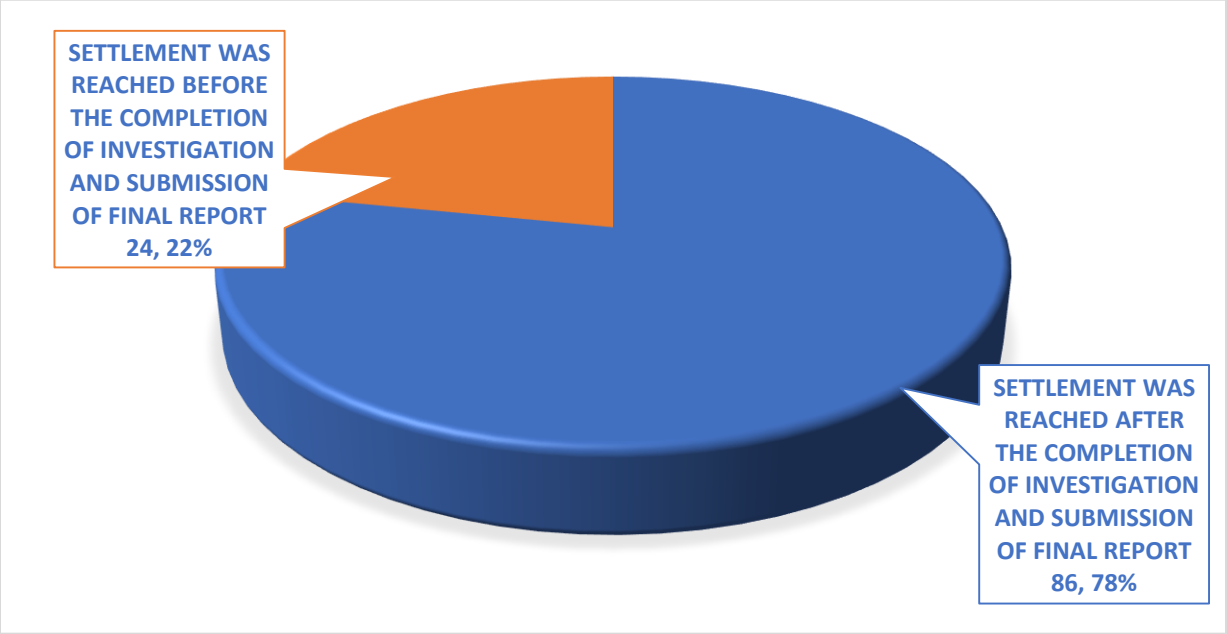
As stated earlier out of 175 Crl.M.Cs that were disposed 141 Crl.M.Cs were allowed by the High Court of Kerala. Out of 141 Crl.M.Cs that were allowed 110 Crl.M.Cs were allowed on the ground of settlement between the parties. Out of the said 110 Crl.M.Cs which were allowed on the ground of settlement between the parties 42 Crl.M.Cs related to prosecutions under Section 498A of the IPC

TABLE 10.

Crl.M.Cs ALLOWED ON THE GROUND OF SETTLEMENT REACHED AFTER FILING THE FINAL REPORT

GROUND OF SETTLEMENT	NO OF CASES
SETTLEMENT WAS REACHED AFTER THE COMPLETION OF INVESTIGATION AND SUBMISSION OF FINAL REPORT	86
SETTLEMENT WAS REACHED BEFORE THE COMPLETION OF INVESTIGATION AND SUBMISSION OF FINAL REPORT	24

Total: 110



Out of 110 Crl.M.Cs that were allowed on the ground of settlement between the parties. Settlement was reached in 86 cases after the completion of investigation and submission of final report.

TABLE 11.

CRL.M.Cs IN RELATION TO PROSECUTIONS LAUNCHED UNDER SPECIAL STATUTES

Crl.M.C. number	Special statute involved	Outcome
Crl.M.C. 41 of 2022	Kerala Money-Lenders Act, 1958 Kerala Prohibition of Charging Exhorbitant Interest Act, 2012	Allowed - Settlement
Crl.M.C. 46 of 2022	Kerala Prohibition of Ragging Act	Allowed – Settlement
Crl.M.C. 213 of 2022	Kerala Prohibition of Ragging Act	Allowed – special order
Crl.M.C. 47 of 2022	Narcotic Drugs and Psychotropic Substances Act, 1959	Bail condition modified
Crl.M.C. 87 of 2022	Narcotic Drugs and Psychotropic Substances Act, 1959	Not allowed
Crl.M.C. 164 of 2022	Narcotic Drugs and Psychotropic Substances Act, 1959	Disposed by special order
Crl.M.C. 131 of 2022	Negotiable Instruments Act	Not allowed
Crl.M.C. 133 of 2022	Negotiable Instruments Act	Not allowed

Crl.M.C. 88 of 2022	Negotiable Instruments Act	Pending
Crl.M.C. 106 of 2022	Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act	Allowed – Settled
Crl.M.C. 207 of 2022	Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act	Allowed – Settlement
Crl.M.C. 145 of 2022	Information Technology Act	Allowed – Settlement
CrlM.C. 125 of 2022	Information Technology Act Indecent Representation of Women (Prohibition) Act Kerala Police Act, 2011	Disposed by a special order
Crl.M.C. 235 of 2022	Information Technology Act	Disposed by a special order
Crl.M.C. 155 of 2022	Prevention of Corruption Act	Case closed
Crl.M.C. 158 of 2022	Prevention of Corruption Act	Case closed
Crl.M.C. 167 of 2022	Prevention of Corruption Act	Case closed
Crl.M.C. 180 of 2022	Complaint under section 210 of Kerala Panchayat Raj Act	Allowed – On merits
Crl.M.C. 203 of 2022	Complaint under section 210 of Kerala Panchayat Raj Act	Allowed – On merits
Crl.M.C. 65 of 2022	Prevention of Destruction of Public Property Act	Allowed – Modified the impugned order
Crl.M.C. 70 of 2022	Dowry Prohibition Act	Allowed – Settlement
Crl.M.C. 83 of 2022	Kerala Abkari Act	Not allowed
Crl.M.C. 84 of 2022	Protection of Children from Sexual Offences Act	Pending
Crl.M.C. 102 of 2022	Motor Vehicles Act	Allowed – Settlement
Crl.M.C. 223 of 2022	Motor Vehicles Act	Partly allowed – Special order
Crl.M.C. 130 of 2022	Mines and Minerals (Development and Regulation) Act	Allowed on merits
Crl.M.C. 196 of 2022	Passport Act	Allowed on merits
Crl.M.C. 212 of 2022	Arms Act	Allowed – on merits
Crl.MC. 218 of 2022	Wild Life (Protection) Act	Allowed by a special order

Crl.M.C. 229 of 2022	Juvenile Justice (Care and Protection of Children) Act	Allowed – Settlement

Table 11 provides information on Crl.M.Cs filed with respect to prosecutions launched under special statutes. Out of the 250 Crl.M.Cs that were analysed as part of the study, all except 30 Crl.M.Cs related to prosecutions launched exclusively in respect of offences under the Indian Penal Code. The 30 Crl.M.Cs related to criminal prosecutions launched either exclusively in respect of offences under special statutes or in respect of IPC offences read with offences under special statutes. Out of the 30, 3 Crl.M.Cs each were filed with respect to prosecutions launched under NDPS offences, Negotiable Instruments Act, Information Technology Act and Prevention of Corruption Act. 2 Crl.M.Cs each were filed with respect to prosecutions launched under Kerala Prohibition of Ragging Act and Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The other Crl.M.Cs were filed with respect to prosecutions launched under the legislations such as Dowry Prohibition Act, Kerala Prevention of Damage to Public Property Act, Kerala Abkari Act, Juvenile Justice Act, Motor Vehicles Act, Wild Life (Protection) Act, Arms Act, Passport Act, POCSO Act, Mines and Minerals (Development and Regulation) Act, Kerala Money Lenders Act, Kerala Prohibition of Charging Exorbitant Interest Act. Two Crl.M.Cs related to complaints filed under section 210 of Kerala Panchayat raj Act.

As can be observed from the table, the Crl.M.Cs were allowed in 17 cases and in 8 cases out of the 17, the Crl.M.Cs were allowed on the basis of settlement reached between the parties. Crl.M.Cs filed in respect of prosecutions under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act are found to have been allowed on the basis of settlement between the parties. Two cases related to Kerala Prohibition of ragging Act were quashed on the basis of settlement reached between the parties. In its worth observing that in Crl.M.C 213 of 2022 which related to a prosecution launched under the Kerala Prohibition of Ragging Act, the Kerala High Court quashed the proceedings after hearing the public prosecutor and taking into account the settlement reached between the parties. However, in the light of the suggestion made by the public prosecutor, the court directed the accused to perform social work under the supervision of the District Legal Services Authority.

TABLE 12.

FIR/FINAL REPORT/PROCEEDINGS QUASHED ON THE GROUND OF SETTLEMENT BETWEEN PARTIES – JUDGE WISE DATA

Name of the Judge	Total number of Crl.M.Cs disposed by the Judge	Number of Crl.M.Cs allowed on the ground of settlement reached between parties
Justice K. Haripal	49	25
Justice Kauser Edappagath	77	62
Justice Ziyad Rahman A. A.	20	20
Justice Mohammed Nias	2	2
Justice Bechu Kurian Thomas	1	1

As mentioned in Table/Figure 2 out of the 175 Crl.M.Cs which were disposed 141 Crl.M.Cs were allowed by the High Court of Kerala. As mentioned in table/Figure 8 out of 141 Crl.M.Cs which were allowed 110 Crl.M.Cs were allowed on the ground of settlement reached between the parties. Table/Figure 4 provides data on the number of Crl.M.cs disposed by various judges of Kerala High Court. The present Table/Figure 12 provides data on the number of Crl.M.Cs allowed by each judge on the ground of settlement reached between the parties.

From among the 250 Crl.M.Cs analysed only the following five judges are found to have quashed FIRs/Final Reports/Proceedings on the ground of settlement reached between the parties: (1) Justice K. Haripal, Justice Kauser Edappagath, Justice Ziyad Rahman A. A., Justice Mohammed Niyas and Justice Bechu Kurian Thomas.

As can be seen in Table/Figure 12 Justice K. Haripal had disposed 49 CrlM.Cs out of the total 175 Crl.M.Cs that were disposed by the High Court. Out of the said 49 Crl.M.Cs Justice Haripal quashed FIRs/Final Reports/Proceedings in 25 Crl.M.Cs (51%) on the ground of settlement reached between the parties.

As can be seen in Table/Figure 12 Justice Kauser Edappagath had disposed 77 Crl.M.Cs out of the total 175 Crl.M.Cs that were disposed by the High Court. Out of the said 77 Crl.M.Cs Justice Kauser Edappagath quashed FIRs/Final Reports/Proceedings in 62 Crl.M.Cs (81%) on the ground of settlement reached between the parties.

As can be seen in Table/Figure 12 Justice Ziyad Rahman A. A. had disposed 30 Crl.M.Cs out of the total 175 Crl.M.Cs that were disposed by the High Court. Out of the said 30 Crl.M.Cs Justice Ziyad Rahman A. A. quashed FIRs/Final Reports/Proceedings in 25 Crl.M.Cs (83%) on the ground of settlement reached between the parties.

As can be seen in Table/Figure 12 Justice Mohammed Niyas had disposed 2 Crl.M.Cs out of the total 175 Crl.M.Cs that were disposed by the High Court. Out of the said 2 Crl.M.Cs Justice Mohammed Niyas quashed FIRs/Final Reports/Proceedings in all the 2 Crl.M.Cs (100%) on the ground of settlement reached between the parties.

As can be seen in Table/Figure 12 Justice Bechu Kurian Thomas had disposed only 1 Crl.M.C out of the total 175 Crl.M.Cs that were disposed by the High Court. Out of the said 1 Crl.M.C. Justice Bechu Kurian Thomas quashed FIRs/Final Reports/Proceedings in that single Crl.M.C (100%) on the ground of settlement reached between the parties.

CHAPTER IV

CONCLUSIONS, FINDINGS AND SUGGESTIONS

In this research project the researcher has made an attempt to map the circumstances in which the inherent power is exercised by the High Court of Kerala. More particularly the study examined the purposes for which petitions under Section 482 Cr.P.C. are filed in the High court of Kerala? The researcher has also analysed the approach of the High Court of Kerala while disposing the petitions filed under Section 482 Cr.P.C. The study also examined whether the power to quash FIR/Final reports/Proceedings have been exercised liberally by the High Court of Kerala. The approach of Kerala High Court in the matter of quashing proceedings in respect of offences which are essentially non-compoundable on the ground that the parties have amicably settled the dispute has also been subjected to analysis in this study.

FINDINGS

The following findings emerge from the analysis of the approach of Kerala High Court in respect of disposal of petitions filed under section 482 Cr.P.C:

- The Kerala High Court has adopted a liberal approach in the matter of disposal of Crl.M.Cs. Out of the 175 disposed Crl.M.Cs analysed by the researcher the High Court has allowed the petition in 141 cases.

- Thiruvananthapuram district with 43 Crl.M.Cs tops the list of the districts from where the Crl.M.Cs are found to have been filed. Ernakulam district with 36 Crl.M.Cs stands second.

- Majority of Crl.M.Cs (i.e., 60 Crl.M.Cs) are found to have been filed for quashing the final report filed under section 173 Cr.P.C. 54 Crl.M.Cs out of the 60 Crl.M.Cs filed for quashing final report have been allowed by the Kerala High Court.

- Majority of Crl.M.Cs (i.e., 110 out of the 141 Crl.M.Cs which have been allowed) have been allowed and FIRs/Final Reports/ Proceedings quashed on the ground that the matter has been settled between the parties.

- As regards the 15 Crl.M.Cs that were filed for quashing FIRs the court responded positively in all but one Crl.M.C. A majority of the FIRs have been quashed on the ground that the parties have settled the dispute.

- The court has adopted a liberal approach in the matter of quashing FIRs/Final Reports/Proceedings in respect of non-compoundable offences.

- In all the 110 cases in which the FIRs/Final Reports/ Proceedings were quashed the High Court has done so by relying on the law declared in *Gian Singh* v. *State of Punjab*, *Narinder Singh* v. *State of Punjab* and *State of Madhya Pradesh* v. *Laxmi Narayan*.

- FIRs/Final reports/ Proceedings in respect of section 498 A IPC have been quashed by the court in several cases by applying the ratio in *Gian Singh* v. *State of Punjab*, *Narinder Singh* v. *State of Punjab* and *State of Madhya Pradesh* v. *Laxmi Narayan*.

- Prosecutions in respect of section 308 IPC have been quashed by the court on the ground of settlement between parties. This has been done by the court by considering the nature of the injury inflicted by the accused.

- In two instances prosecutions under Kerala Prohibition of Ragging Act have been quashed by the court on the ground that the parties have settled the dispute. In one such case, on the request of the public prosecutor, the court directed the accused to perform social service under the supervision of the District Legal Services Authority.

- The approach of the court has been very consistent, more particularly in the matter of quashing FIRs/Final Reports/Proceedings on the ground of settlement between parties.

- After analysing the orders passed in the 175 Crl.M.Cs that have been disposed by the court, it is difficult to deduce particular principles underlying the approach.

SUGGESTIONS

- The investigating officers should be so conscious in making FIR with a proper way and there should not include any offences it cannot be termed to be convicted at the time of trial.
  For e.g. Instead of taking FIR under S. 324 IPC they may be restraint from initiating sections under 308 IPC.

- Moreover, in Matrimonial offences the court will be more liberal in quashing the offences under settlement arisen between the spouses and the court will not quash a POCSO Cases on settlement.

- Women in matrimonial proceedings are usually advised to file a case against husband and family members under section 498A of IPC. If the case registered is false and is filed merely to get a divorce or for revenge, the same shall be quashed by filing a petition before High Court under section 482 of Cr.P.C to save the accused from long drawn trails.

- Considering public interest in mind the court as well as the investigating agency should be very conscious while investigating crimes and due diligence may be taken while doing so.

- Stringent measures should be taken against a public servant, if he has misused his power or has taken undue influence to harass a person.

- Minor offences can be settled before the police station itself and it will help the court to diminish the condemn of work.

- Ragging has to be viewed seriously and the court will not be in a position to take liberal view and the same may not be quash then only the public will have a faith on the judiciary.

- Motor Vehicle Accidents has to be viewed liberally but in certain cases S. 304 A IPC will be charge under S. 308 IPC has to be viewed seriously if the accused has having an intention to commit murder. In the case of a trivial also it should be viewed liberally since most of the trivial ones are because of contributory negligence and the same may well be settled.

- Negotiable Instrument Act is a private complaint cannot initiate action against the accused the offences will be quashed only on technical grounds like lack of notice and non-impleadment of company if the cheque is from the account of the company.

- In NDPS cases if the investigating officer faced to comply with the statutory directions of search and seizure there is every chance for quashing the offence while searching the body of an accused

the investigating officer has to intimate the accused has to his right to be searched in the presence of gazetted officer or magistrate.

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