

Case advanced by CW1 by filing advancement application and by appearing voluntarily.

Accused is absent.

Learned APP is present.

C.W.1 is present. CW.1 is identified by Court P.C.

CW.1 submitted that, he has taken the Ashok Leland Tempo in his possession.

In view of the same, CW.1 files application under Section 320(2) of Cr.P.C for composition of the offence.

The same is read over and explained to Cw1 in the language known to him and also explained consequences of the same. The CW.1 agreed to compound the matter voluntarily without there being any force, threat, pressure, undue influence etc.

Accused is absent. Question is whether the first informant could compound the case in absence of accused.

In this regard, Hon'ble High Court of Kerala in ***Y.P. Baiju V/s. State Of Kerala And Ors reported in 2008 CRILJ 928*** has observed at paragraph No. 22 as under:

"22. I shall now attempt to narrate my conclusions. They are:

(1) Composition under Section 320, Cr. P. C. is a unilateral act.

(2) The victim (person shown in column 3 of Section 320(1) and

320(2) can himself make an application for composition.

(3) It is not necessary for the Court to insist on a joint application for composition. The victim can of course make a joint application along with the accused.

(4) It is not necessary for the Court to insist on the personal appearance of the accused before Court to consider an application for composition under Section 320, Cr. P.C.

(5) The mere fact that the Court has already issued a non-bailable warrant against the accused and that is pending is no reason for the Court not to proceed further with the case. All steps for which personal presence of the accused is not necessary can be continued even if the non-bailable warrant remains unexecuted and the accused has not personally appeared."

Having regard to the aforesaid principles and having regard to facts and nature of present case, presence of accused persons is not at all necessary. Hence, application filed under Section 320 (2) of Cr.P.C is hereby allowed and consequently, the accused is acquitted for the alleged offence.

Bail bonds of accused persons and surety if any stand cancelled. Accordingly case is closed.