

Shafeeq P.A. Vs. Shaharbana

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Court : Kerala

Decided On : Dec-31-2012

Judge : Honourable Mr.Justice T.R.Ramachandran Nair

Appellant : Shafeeq P.A.

Respondent : Shaharbana

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR MONDAY, THE 31ST DAY OF DECEMBER 2012 10TH POUSHA 193 CrI.MC.No. 3440 of 2012 (D) ----- CC.665/2012 of JUDICIAL FIRST CLASS MAGISTRATE COURT, PAYYANNUR PETITIONER(S)/ACCUSED: ----- 1. SHAFEEQ P.A., AGED 2 YEARS, S/O.ABDUL KAREEM, PUTHA PUTHIKKAL, CHERUVATUR VALIYA POYIL POST, KASARAGOD DISTRICT.

2. JABIR V.S, AGED 2 YEARS, S/O.SAID MUHAMMAD, VATTAKUDIYIL HOUSE, CHERUVATUR VALIYA POYIL POST, KASARAGOD DISTRICT 3 HAFSATH M.T.P, AGED 3 YEARS, W/O.ABDUL AZEEZ, MANAKKAT THEKKE PURAYIL, CHANADUKKAM, VALIYA POYIL POST, KASARAGOD DISTRICT. BY ADVS.SRI.ZUBAIR PULIKKOOL SRI.P.S.BINU RESPONDENTS/COMPLAINANT(S): ----- 1. SHAHARBANA, AGED 2 YEARS, D/O.HAMZA, PUNJAKKAD, PAYYANNUR POST, KANNUR DISTRICT PIN 67030.2. STATE OF KERALA, REPRESENTED BY PUBLIC

PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM. R1 BY ADV. SMT.P.A.ANEESHA BY SMT.V.H.JASMINE, PUBLIC PROSECUTOR THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 31-12-2012, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: AS CrI.MC.No. 3440 of 2012 (D) APPENDIX PETITIONER(S) EXHIBITS: ANNEXURE 1 COPY OF THE FINAL REPORT IN CRIME 573 12 OF PAYYANNUR POLICE STATION. ANNEXURE II: THE TRUE COPY OF THE AGREEMENT EXECUTED BY 1ST PETITIONER AND 1ST RESPONDENTS. ANNEXURE III: THE TRUE COPY OF THE AFFIDAVIT OF 1ST RESPONDENT. RESPONDENTS' EXHIBITS: NIL /TRUE COPY/ P.A.TO JUDGE AS T.R. RAMACHANDRAN NAIR, J.

----- CrI. M.C. No.3440 OF
201.------ Dated this the 31st day of December, 2012.

ORDER

The CrI.M.C is filed by the petitioners seeking to quash the proceedings in C.C.No.665/2012 on the file of the Judicial First Class Magistrate Court, Payyanur. The petitioners are the accused 1 to 3 in the said case and the allegation is that they have committed an offence punishable under Section 498A read with Section 34 of Indian Penal Code. The de facto complainant was married by the 1st accused. Subsequently certain disputes have arisen between the parties which have led to the criminal complaint.

2. It is averred in paragraph 3 of the writ petition that the entire disputes have been amicably settled between the de facto complainant and the petitioners in the presence of mediators and the 1st respondent received all the benefits of a Muslim divorced CrI.M.C.No.3440/2012 2 woman. Annexure II is a copy of the agreement which is followed by an affidavit sworn to by the 1st respondent declaring that they have settled the case. Learned counsel for the petitioners submitted that in the light of the settlement, it is not necessary to proceed with the criminal case and the proceedings may therefore be quashed.

3. Heard the learned counsel for the petitioners, learned counsel for the 1st respondent and the learned Public Prosecutor. Learned counsel for the 1st respondent submitted that the disputes between the parties have been settled.

Learned Public Prosecutor also confirmed the same.

4. Evidently, the disputes and differences between the spouses after the marriage has resulted in a criminal complaint and now that the matter has been settled and the parties are living separately and that they have also expressed their agreement in the matter, it is not necessary to proceed with the criminal case. In the light of the various decisions of the Apex Court, this CrI.M.C.No.3440/2012 3 Court can exercise the power under Section 482 of the Code of Criminal Procedure to quash the complaint itself. Therefore, the proceedings in C.C.No.665/2012 on the file of the Judicial First Class Magistrate Court, Payyanur will stand quashed. The CrI. M.C. is allowed as above. T.R. RAMACHANDRAN NAIR JUDGE smp

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