

Sadiq Basha Vs. Habeeba

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Court : Kerala

Decided On : Dec-31-2012

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

Appellant : Sadiq Basha

Respondent : Habeeba

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. 3919 of 2012 () ----- CC.316/2009 of J.M.F.C.-II,PALAKKAD (CRIME NO. 158/2009 OF KONGAD POLICE STATION, PALAKKAD DIST.) PETITIONER(S)/ACCUSED: ----- SADIQ BASHA, AGED 4 YEARS VALIYA MASJID, DOOR NO.58, JAHIR HUSSAIN ROAD KANNAMAGALAM, VELOOR, TAMILNADU. BY ADV. SRI.V.A.JOHNSON (VARIKKAPPALLIL) RESPONDENTS/DEFACTO COMPLAINANT AND STATE: ----- 1. HABEEBA, AGED 3 YEARS W/O.SADIQ BASHA, KERALASSERY, MUNDUR PALAKKAD DISTRICT-678016.

2. STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR HIGH COURT OF KERALA, ERNAKULAM-682031. R1 BY ADV. SRI.M.REVIKRISHNAN BY PUBLIC PROSECUTOR SRI. RAJESH VIJAYAN THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 31-12-

2012, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Crl.MC.No. 3919 of 2012 () APPENDIX PETITIONER'S ANNEXURES: ANNEXURE A: TRUE COPY OF THE FINAL REPORT IN C.C.NO.316/2009 OF THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE NO.II, PALAKKAD ANNEXURE B: THE AFFIDAVIT SWORN BY THE 1ST RESPONDENT HEREIN EVIDENCING THE AFORESAID FACT. RESPONDENTS ANNEXURES: NIL //TRUE COPY// P.A. TO JUDGE. dlk T.R.RAMACHANDRAN NAIR, J.

----- CRL.M.C.No.3919 Of 2012
----- DATED THIS THE 31st DAY OF
DECEMBER, 2012 ORDER This is a case where the petitioner seeks to quash the proceedings in C.C.No.316/09 pending before the Judicial First Class Magistrate Court-II, Palakkad. He is arrayed as an accused therein. The 1st respondent is the complainant and the marriage between the petitioner and the 1st respondent took place on 22.4.2007. The allegation is one of matrimonial cruelty on the 1st respondent.

2. Annexure A is the copy of the final report in C.C.No.316/09. It is submitted that the disputes have been settled as of now and the parties are living together as husband and wife. It is submitted by the learned counsel for the parties that the evidence in the case has started already and Annexure B is the copy of the affidavit sworn to by the 1st respondent.

3. Heard the learned Public Prosecutor appearing for the State also.

4. Since the offence is one under Section 498A and being CRL.M.C.No.3919/12 - 2- a non-compoundable one, if the parties have settled the matter, this Court will be right in exercising the jurisdiction under section 482 of the Code of Criminal Procedure. The said legal position has been declared by the Apex Court in B.S.Joshi v. State of Haryana (2003(4) SCC 675).

5. Evidently, this is a case where the parties have settled the differences and are living together as husband and wife. Therefore there will not be any purpose in proceeding with the criminal case also. In the light of the above, the Crl.M.C. is allowed and Annexure A and further proceedings in C.C.No.316/09 of the Judicial

First Class Magistrate Court -II, Palakkad is quashed. Sd/-(T.R.RAMACHANDRAN NAIR) JUDGE. dsn

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