

Shaji Vs. State of Kerala

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Court : Kerala

Decided On : Feb-04-2013

Judge : Honourable Mr.Justice C.T.Ravikumar

Appellant : Shaji

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR MONDAY, THE 4TH DAY OF FEBRUARY 2013 15TH MAGHA 193 CrI.MC.No. 763 of 2013 ()
----- CRIME NO. 1289/2012 OF SAKTHIKULANGARA POLICE STATION, KOLLAM DISTRICT ----- PETITIONER / ACCUSED :
----- SHAJI, S/O.SATYAPALAN, SHEEJA MANDIRAM, SAKTHIKULANGARA P.O., KOLLAM. BY ADV. SRI.DILEEP P. PILLAI RESPONDENTS/STATE & DEFACTO COMPLAINANT :
----- 1. STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM

031.

2. RADHIKA D/O.SHEELA, KOOTTUMVATHUKKAL VEEDU, KALLUMPURAM, SAKTHIKULANGARA, KOLLAM. R1 BY PUBLIC PROSECUTOR SMT. S. HYMA

R2 BY ADV. SRI.B.N.HASKAR THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 04-02-2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Mn ...2/- Crl.MC.No. 763 of 2013 () APPENDIX PETITIONERS' EXHIBITS : ANNEXURE A CERTIFIED COPY OF FIRST INFORMATION REPORT IN CRIME NO. 1289/2012 OF SAKTHIKULANGARA POLICE STATION. ANNEXURE B AFFIDAVIT FILED BY 2ND RESPONDENT DATED 19 1-2013. RESPONDENTS' EXHIBITS : NIL //TRUE COPY// P.S. TO JUDGE Mn C.T.RAVIKUMAR,J.

----- Crl.M.C.No.763 of 2013
----- Dated this the 4th day of February, 2013

ORDER

The petitioner is the sole accused in Crime No. 1289/2012 of Sakthikulangara Police Station. The delation against him is one of commission of an offences under Sections 294 (b), 341, 323 and 354 of the Indian Penal Code. The gist of the accusation is that on 04.12.2012 the second respondent/ the de facto complainant along with her husband and sister and daughter Anjana were travelling in a car and when the car reached near Kallumpurathu Temple the de facto complainant's husband stopped the car on seeing his crew there. The petitioner was then standing there uttering obscene words. It is his subsequent acts that led to the hospitalisation of the de facto complainant and later, to the registration of the aforesaid crime based on her statement given from there. Annexure-A FIR came to be registered in the said circumstances.

2. This petition has been filed mainly with the prayer to quash Annexure-A FIR and all further proceedings in crime No.1289/2012 of Sakthikulangara Police Station pending Crl.M.C.No.763 o

2. before the court of the Judicial First Class Magistrate-II, Kollam taking into account the settlement and compromise entered into between the parties subsequently, to secure the ends of justice.

3. I have heard the learned counsel for the petitioner, the learned counsel for the second respondent and also the learned Public Prosecutor.

4. In view of the order, I propose to pass in this case, I think it unnecessary to deal with the facts and contentions in detail. I have already adverted to the circumstances that culminated in registration of Annexure-A. The allegation against the petitioner is regarding the commission of offences under Sections 294(b), 341, 323 and 354, IPC. The learned counsel for the second respondent would admit that the issues involved in the case have been compromised and settled and true that the said position is obvious from Annexure-B affidavit. It is to be noted, in this context, that among the offences those under Sections 341, 323 and 354 IPC alone are compoundable in terms of the provisions under Section 320 of the Cr.P.C. and the offences under Sections 294(b), 354 of IPC are non-Crl.M.C.No.763 o

3. compoundable. Obviously, Annexure-B along with the submission of the learned counsel for the second respondent would leave no room for any doubt that the second respondent, on her own, volunteered to compound the offences under Sections 323 and 341, IPC. against the petitioner and also supports the prayers of the petitioner for quashment of Annexure-A and all all proceedings against him pursuant thereto and now pending before the court of the Judicial First Class Magistrate-II, Kollam. The offences under Sections 341 and 323 are compoundable respectively by the person who was restrained or confined and the person to whom the hurt was caused in terms of the provisions under Section 320 and as such, the second respondent is competent to compound the offences under these Sections, as against the petitioner, with the permission of the court.

5. Now, the offences under Sections 294(b) and 354 of the IPC are not compoundable. However, in the decision reported in Gian Singh V. State of Punjab reported in [2012(4) KLT 108.the Honourable Supreme Court quoted the decisions in Crl.M.C.No.763 o

4. Joshi V. State of Haryana [2003 (2) KLT 1062], Nikhil Merchant V. Central Bureau of Investigation [2008(3) KLT 769.and Manoj Sharma V. State [2008(4) KLT 417(SC)] with approval to hold that in the very nature of its constitution it is the judicial obligation of the High Court to prevent continuation of unnecessary judicial process. In Joshi's case supra the Honourable Supreme Court held that

the provisions under Section 320 of Cr.P.C. cannot limit or affect the inherent powers of the High Court under Section 482 of Cr.P.C. When it is evident that the continuation of the criminal proceedings in a given circumstance would amount to abuse of process of court and thus, would result in miscarriage of justice this court is having a duty to see that such a proceedings are terminated by invoking the inherent power under Section 482 Cr.P.C. In the case, indisputably, the circumstances now obtained would reveal that continuation of entire proceedings in based on Annexure-A FIR has become unnecessary. Having heard the learned counsel on both sides and considering the decisions referred on above, I have no doubt that this is a fit case wherein CrI.M.C.No.763 o

5. this Court should invoke the inherent power under Section 482 of Cr.P.C. In such circumstances, this Criminal M.C. is allowed. Annexure-A FIR in crime No.1289/2012 of Sakthikulangara Police Station and all further proceedings based on the same are quashed. C.T.RAVIKUMAR,JUDGE. dlk

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