

Gopakumar Vs. State of Kerala

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Court : Kerala

Decided On : Jan-31-2013

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

Appellant : Gopakumar

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR THURSDAY, THE 31ST DAY OF JANUARY 2013 11TH MAGHA 193 CrI.MC.No. 631 of 2013 ()
----- AGAINST THE ORDER/JUDGMENT IN CrI.Rev.Pet.2150/2010 of HIGH COURT OF KERALA DATED CRIME NO. 506/2006 OF THAMARASSERY POLICE STATION , KOZHIKODE
PETITIONER(S)/ACCUSED: ----- GOPAKUMAR S/O. UDAYABHANU K.,UNNYASSERIL HOUSE,PNDARATHURUTH CHERIYAZHEEKAL P.O.,KARUNAGAPPALLY KOLLAM DISTRICT. BY ADVS.SRI.P.MARTIN JOSE SRI.M.A.MOHAMMED SIRAJ SRI.P.PRIJITH
RESPONDENT/COMPLAINANT: ----- 1. THE STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR HIGH COURT OF KERALA,ERNAKULAM.

2. SAHINA D/O. P.P.GOPINATH,PUTHENPARAMBIL HOUSE,CHUNDANKUZHI CHAMAL P.O.,THAMARASSERY,KOZHIKODE-673001. R1 BY PUBLIC

PROSECUTOR SRI.T.RAMAPRASAD UNNI R2 BY ADV. SRI.ANEESH JAMES
THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 31-01-
2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: tss CRMC.
NO .631/2013 APPENDIX PETITIONER(S) ANNEXURES ANNEXURE A- TRUE
COPY OF FINAL REPORT BEFORE THE JUDICIAL FIRST CLASS
MAGISTRATE COURT-I, THAMARASSERY IN CRIME NO. 506 OF
2006.ANNEXURE B- TRUE COPY OF AGREEMENT DATED 23 06-2011
EXECUTED BY THE PETITIONER AND 2ND RESPONDENT. ANNEXURE C-
TRUE COPY OF ORDER IN CRL.R.P.NO. 2150 OF 201.DATED 18 06-2012 OF
THIS HON'BLE COURT. ANNEXURE D- TRUE COPY OF THE AFFIDAVIT OF
THE 2ND RESPONDENT DATED 23 01-2013 FILED BEFORE THIS HON'BLE
COURT. RESPONDENTS' ANNEXURES NIL //TRUE COPY// P.A. TO JUDGE tss
T.R. RAMACHANDRAN NAIR, J.

~~~~~ Criminal

M.C.No.631/2013

~~~~~ Dated this the 31st day of January, 2013

ORDER

The petitioner is the sole accused in Crime No.506/2006 of Thamarassery Police Station wherein the offences alleged are under Sections 406, 498A and 386 of the Indian Penal Code. Annexure-A is the copy of the final report. The case is now pending as C.C.No.1/2009 on the file of the Judicial First Class Magistrate Court-I, Thamarassery.

2. The marriage between the petitioner and the second respondent was on 22/08/2004. The parties are living separately since 03/10/2006. Thereafter, a criminal complaint was filed by the second respondent which led to the registration of Crime No.506/2006. Apart from the same, M.C.No.2/2008 was filed against the petitioner and others under Section 12 of Protection of Women from Domestic Violence Act, 2005 and she has also sought for divorce by filing O.P.No.729/2008 before the Family Court, Kozhikode. In M.C.No.2/2008, an order was passed on 02/02/2009 in favour of the second respondent which was confirmed in Crl.Appeal No.142/2009 of the Sessions Court, Kozhikode. The petitioner and others have filed Crl.R.P.No.2150/2010 before this Court against the said Judgment and the

same was disposed of by Annexure-C Order recording the settlement between the parties. Annexure-B is the agreement executed between the parties incorporating the terms and CrI.M.C No.631/2013 -:2:- conditions for separation. I.A.No.1245/2011 in O.P.No.729/2008 is a joint petition filed under Section 13B of the Hindu Marriage Act mutually agreeing to dissolve the marriage before the Family Court, Kozhikode and the court dissolved the marriage by order dated 30/06/2011.

3. An affidavit has been filed by the second respondent as Annexure-D stating that she has no objection in quashing the proceedings in C.C.No.1/2009.

4. Heard the learned Senior Counsel for the petitioner and the learned counsel for the second respondent.

5. Evidently, in the light of the settlement between the parties, there will not be any useful purpose in proceeding with the criminal prosecution. Clearly it is a matrimonial dispute and therefore, by invoking the inherent powers under Section 482 of the Code of Criminal Procedure, this Court will be justified in quashing the proceedings. Accordingly, the criminal miscellaneous case is allowed. In the light of the above, proceedings in C.C.No.1/2009 on the file of Judicial First Class Magistrate Court, Thamarassery will stand quashed. Sd/- (T.R. Ramachandran Nair, Judge.) ms

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