

Shereef Vs. Shameena

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SooperKanoon Citation : sooperkanoon.com/1098348

Court : Kerala

Decided On : Oct-31-2013

Judge : Honourable Mr. Justice P.D.Rajan

Appellant : Shereef

Respondent : Shameena

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE P.D.RAJAN THURSDAY, THE 31^T DAY OF OCTOBER 2013 9TH KARTHIKA, 1935 CrI.MC.No. 140 of 2012 ()
----- AGAINST THE

ORDER

IN MC142006 of JUDICIAL FIRST CLASS MAGISTRATE COURT, IRINJALAKUDA ----- REVISION PETITIONER/RESPONDENT/COUNTER PETITIONER: -----

SHEREEF, S/O.ALI, THAZHATUVEETTIL HOUSE, PUTHENCHIRA VILLAGE, KUTHIRATHADAM DESOM. BY ADV. SRI.PMM.NAJEEB KHAN RESPONDENTS/RESPONDENTS/PETITIONER:

----- 1. SHAMEENA, D/O.ABDUL KHADER, KANJIRAPARAMBIL HOUSE, PUTHENCHIRA VILLAGE, KUTHIRATHADAM DESOM-685051.

2. STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, KOCHI-682031. R1 BY ADVS. SRI.K.A.SHAMSUDEEN SRI.K.J.MOHAMMED ANZAR SRI.V.K.MEETHIANKUNJU R2 BY PUBLIC PROSECUTOR SRI.GITHESH.R. THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 31.10.2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: PJ CrI.MC.No. 140 of 2012 () -----
APPENDIX PETITIONER(S) EXHIBITS ANNEX.A1:- THE CERTIFIED COPY OF THE

ORDER

DTD IN117/2008 IN MC NO.14/06 PASSED BY THE LEARNED JFCM COURT ,CHALAKUDY. ANNEX.A2:- THE COPY OF THE

ORDER

DTD 25.10/2011 IN CRL.RP.86/08 PASSED BY THE THE LEARNED SESSION JUDGE, IRINJALAKUDA. RESPONDENTS' EXHIBITS NIL. / TRUE COPY / P.S. TO JUDGE PJ P.D. RAJAN, J.

----- CrI. M.C. No.140 of 2012
----- Dated this the 31st day of October, 2013

ORDER

This petition is filed under Section 482 of Cr.P.C. against the order in CrI.R.P.No.36/2008 on the file of Additional District & Sessions Judge, Irinjalakuda. The above revision was preferred against the order in M.C.No.14/2006 on the file of J.F.C.M. Chalakudy, which was filed under Section 3 of the Muslim Woman (Protection of Rights on Divorce) Act.

2. The petitioner married the 1st respondent on 31.7.2005 as per Muslim customary rites. Subsequently, their marital relationship became strained. The 1st respondent pronounced 'talaque' and the marriage was divorced. In the circumstances, the 1st respondent approached the Magistrate's Court for getting maintenance under the above Act. The learned Magistrate granted Rs.4,500/- towards maintenance to the 1st respondent and the petitioner was also directed to pay Rs.90,000/- to the 1st respondent as fair and reasonable provision CrI.

M.C.No.140/12 2 for maintenance. Aggrieved by that, the petitioner preferred the above revision, which was dismissed by the revisional court. In the circumstances, he approached this Court with this petition.

3. The learned counsel appearing for the petitioner urged in this petition that the orders passed by the trial court and revisional court were without considering the relevant provisions of law. The entire dispute was settled out of court, thereafter, the 1st respondent is barred from initiating any legal proceedings against the petitioner. The terms of the compromise were not considered by the court below before giving such order. Hence, he approached this Court for using inherent power to quash the proceedings.

4. On the basis of the above averment in the petition, I have perused the document. I have verified the order of Judicial First Class Magistrate, Irinjalakuda and also the order issued by the revisional court. It is clear from the petition that the 1st respondent and the petitioner were married as per their personal religious rites and thereafter the marriage was divorced. As per Section 3 (1) (a) of Muslim Woman (Protection of Right on Divorce) Act wife is entitled to get fair CrI. M.C.No.140/12 3 amount as maintenance. In the trial court, the 1st respondent was examined as PW1 and her documents were marked as Ext.P1 to P11(a). DW1 and DW2 were examined on the side of the petitioner and Ext.D1 was also marked. According to Section 3 of Muslim Woman (Protection of Right on Divorce) Act, the divorced woman will have entitled to get reasonable and fair provision for maintenance from her former husband. No issues were born out from this wedlock. Therefore, the wife alone claimed the compensation from her husband. Even though the petitioner contended that the wife had relinquished her right as per the compromise, which was denied by her in the lower court, it was endorsed by the learned Magistrate. From the documents, it is found that the trial court and the revisional court considered all legal position and directed the petitioner to pay the maintenance. I found no illegality in the above said order. This is not a fit case for invoking the inherent power of the High Court under Section 482 Cr.P.C. Hence, CrI.M.C. is dismissed accordingly. P.D. RAJAN, JUDGE. acd CrI. M.C.No.140/12 4 CrI. M.C.No.140/12 5