

Hamza Vs. the State of Kerala

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Court : Kerala

Decided On : Jan-28-2014

Judge : Honourable Mr. Justice K.Ramakrishnan

Appellant : Hamza

Respondent : The State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN TUESDAY, THE 28TH DAY OF JANUARY 2014 8TH MAGHA, 1935 CrI.MC.No. 948 of 2014 () ----- CRIME NO. 117/2000 OF ERNAKULAM TOWN NORTH POLICE STATION, ERNAKULAM ----- PETITIONER(S) : ----- 1. HAMZA, AGED 40 YEARS S/O. IBRAHIM, MAROTTIKKAL HOUSE, EDATHALA KARA ALUVA EAST VILLAGE, ALUVA TALUK.

2. ABOOBACKER, AGED 50 YEARS S/O. MUHAMMED, IYYAMBRATH HOUSE, VADAKODE KARA THRIKKAKKARA NORTH VILLAGE, KANAYANNOOR TALUK. BY ADVS. SMT. AYSHA YOUSEFF SRI. V. K. SIDHIK SMT. SAJITHA SIDHIK RESPONDENTS : ----- 1. STATE OF KERALA REP. BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

2. THE SUB INSPECTOR OF POLICE ERNAKULAM TOWN NORTH POLICE STATION, ERNAKULAM.

3. SUJITH, AGED 35 YEARS S/O. KURIAKOSE, PULICKAMALY HOUSE, THANKAMANI KARA THANKAMANI VILLAGE, IDUKKI DISTRICT. R1 & R2 BY PUBLIC PROSECUTOR SRI. K.K. RAJEEV R3 BY ADV. SRI. CYRIL J.

KATTAKAYAM THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28-01-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Mn ...2/- CrI.MC.No. 948 of 2014 () -----

APPENDIX PETITIONERS' ANNEXURES : -----

ANNEXURE 1 A TRUE COPY OF THE F.I.R IN CRIME NO.117/2000 OF ERNAKULAM TOWN NORTH POLICE STATION. ANNEXURE 2 A TRUE COPY OF THE F.I.S IN CRIME NO.117/2000 OF ERNAKULAM TOWN NORTH POLICE STATION. ANNEXURE 3 A TRUE COPY OF THE CHARGE SHEET IN CRIME NO.117/2000 OF ERNAKULAM TOWN NORTH POLICE STATION. ANNEXURE 4 THE AFFIDAVIT FILED BY THE PETITIONER DATED 22-01-14. RESPONDENT(S)' EXHIBITS : NIL -----
//TRUE COPY// P.A. TO JUDGE Mn K. RAMAKRISHNAN, J.

----- CrI.M.C. No.948 of 2014
----- Dated this the 28th day of
January, 2014

ORDER

This criminal miscellaneous case is filed by accused Nos.1 and 2 in C.C.No.526/2006 on the file of the Judicial First Class Magistrate Court-II, Ernakulam, to quash the proceedings, recording the composition between the petitioners and the 3rd respondent under Section 482 of the Code of Criminal Procedure (hereinafter called the 'Code').

2. It is alleged in the petition that, the petitioners are accused Nos. 1 and 2 in Crime No.117/2000 of Ernakulam Town North Police Station, in C.C.No.526/2006 on the file of the Judicial First Class Magistrate Court-II, Ernakulam. The offences alleged against them are under Section 341, 324, 427 and Section 34 of Indian Penal Code. The 3rd respondent herein is the CrI.M.C. No.948 of 2014 2 defacto-complainant and the injured in this case. Now the matter has been settled between

the parties and they are now in good relationship. The defacto-complainant has no complaint against the petitioners now. Since Section 324 of Indian Penal Code has been made non-compoundable by the virtue of the Amendment Act, they have no other remedy, except to approach this court to quash the proceedings, invoking the power under Section 482 of the 'Code'. Hence the petition.

3. Heard the learned counsel for the petitioner, learned Public Prosecutor and the defacto-complainant (3rd respondent).

4. The counsel for the defacto-complainant (3rd respondent) submitted that, the matter has been settled between the parties and they are now living in harmony. He had no complaint against the petitioners and no objection in quashing the proceedings. The above crime was registered CrI.M.C. No.948 of 2014 3 on the basis of the statement given by the 3rd respondent herein, against the petitioners, alleging offences under Section 341, 324, 427 read with Section 34 of the Indian Penal Code, as crime No.117/2000 of Ernakulam Town North Police Station. After investigation, the investigating officer submitted final report before the Judicial First Class Magistrate Court-II, Ernakulam, and that court has taken cognisance of the case as C.C.No.526/2006.

5. The matter has been settled between the parties now. Except Section 324 of the Indian Penal Code, other offences are compoundable in nature. Section 324 of Indian Penal Code was earlier a compoundable offence, but later it has become a non-compoundable one. In the decision reported in *Jitendra Raghuvanshi and Others v. Babita Raghuvanshi and Another* (2013(2) KLT47 and *Gian Singh v. State of Punjab* [2012(4) KLT108(SC)], it has been observed that, in cases where parties to CrI.M.C. No.948 of 2014 4 the prosecution has settled the case and offences were not of serious nature and it resulted in harmony between them, then the High Court can invoke the power under Section 482 of the 'Code' to quash the proceedings. In this case, the 3rd respondent has filed an affidavit before this court, stating that the matter has been settled between the parties and they are living in harmony now and he has no objection in quashing the proceedings against the petitioners. So considering the circumstances, I feel that it is a fit case where the power under Section 482 of the 'Code' can be invoked to quash the

proceedings, as no purpose will be served by proceeding with the case, in view of the fact that, the matter has been settled between the parties. So, the composition of the case as evidenced by the affidavit filed by the defacto-complainant(3rd respondent) is recorded and the proceedings in C.C.No.526/2006 on the file of the Judicial First Class Magistrate Court-II, Ernakulam, as CrI.M.C. No.948 of 2014 5 against the petitioners is hereby quashed. So, the petition is allowed and the proceedings against the petitioners in C.C.No.526/2006 on the file of the Judicial First Class Magistrate Court-II, Ernakulam, is quashed. Office is directed to communicate this order to the concerned court, immediately. Sd/- K. Ramakrishnan, Judge // True Copy // P.A. to Judge ss

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