

Kalidasan Vs. the State of Kerala

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Court : Kerala

Decided On : Jan-31-2014

Judge : Honourable Mr. Justice K.Ramakrishnan

Appellant : Kalidasan

Respondent : The State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN FRIDAY, THE 31ST DAY OF JANUARY 2014 11TH MAGHA, 1935 CrI.MC.No. 967 of 2014 ----- CC NO. 1846/2013 OF JUDICIAL FIRST CLASS MAGISTRATE COURT I, KOTTARAKKARA CRIMENO.2235/2011 OF KOTTARAKKARA POLICE STATION ... PETITIONER(S)/ACCUSED: ----- 1. KALIDASAN, S/O.GANGADHARAN, KOTTARATHIL, SECOND FLOOR, EDAPPALLY, ERNAKULAM.

2. GOPINATHAN, S/O.GANGANDHARAN, KOTTARATHIL, SECOND FLOOR, EDAPPALLY, ERNAKULAM.

3. PRABHAVATHY, W/O.GANGANDHARAN, KOTTARATHIL, SECOND FLOOR, EDAPPALLY, ERNAKULAM BY ADV. DR.PAULY MATHEW MURICKEN
RESPONDENT(S):STATE & COMPLAINANT:

----- 1. THE STATE OF KERALA,

THROUGH THE STATION HOUSE OFFICER, KOTTARAKKARA POLICE STATION, KOLLAM DISTRICT, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM-682 031.

2. RANI JYOTHIKA, D/O.JOHN CHACKO, PRANAVAM HOUSE, PADINJATTINKARA MURI, KOTTARAKKARA VILLAGE, KOTTARAKKARA TALUK, KOLLAM DISTRICT - 695 004. R1 BY PUBLIC PROSECUTOR SMT. SAREENA GEORGE.P. R2 BY ADV. SRI.B.KRISHNA MANI THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 31-01-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Kss CrI.MC.No. 967 of 2014

----- APPENDIX PETITIONER(S)' ANNEXURES:
----- ANNEXURE-A1.CERTIFIED COPY OF THE FIR IN CRIME NO.2235/2011 OF KOTTARAKKARA POLICE STATION. ANNEXURE-A2.CERTIFIED COPY OF THE CHARGE SHEET IN CRIME NO.2235/2011 OF KOTTARAKKARA POLICE STATION. ANNEXURE-A3.A TRUE PHOTOCOPY OF THE AFFIDVIT DATED 21-11-2014 SWORN IN BY THE 2D RESPONDENT. RESPONDENT(S)' ANNEXURES: ----- N I L /TRUE COPY/ P.A.TO JUDGE Kss K. RAMAKRISHNAN, J.

----- CrI.M.C. No.967 of 2014
----- Dated this the 31st day of
January, 2014

ORDER

This Criminal miscellaneous case is filed by the petitioners who are accused Nos.1 to 3 in C.C.No.1846/2013 on the file of the Judicial First Class Magistrate Court-I, Kottarakkara, to quash the proceedings recording composition under Section 482 of the Code of Criminal Procedure (hereinafter called the 'Code').

2. It is alleged in the petition that, the first petitioner married the 2nd respondent. After some time some mis-understanding arose between them. Thereafter they have started residing separately and several litigations including initiation of this crime has happened. Thereafter, the matter has been settled between the parties, due to the intervention of family members and well-wishers and they have decided

to reside separately and the marriage between the first petitioner and the 2nd respondent was dissolved by the family court. No purpose will be served by proceeding Crl.M.C. No.967 of 2014 2 the case. They have no option but to approach this court in the circumstances to quash the proceedings under the Section 482 of the 'Code' and hence this petition.

3. Heard learned counsel for the petitioners, 2nd respondent and learned Public Prosecutor.

4. The counsel for the 2nd respondent submitted that, since the matter has been settled between the parties, she has no objection in allowing the application.

5. It is seen from the petition that, the first petitioner married the 2nd respondent as per the provisions of the Special Marriage Act and they lived together for some time. Thereafter some mis-understanding arose between them, which resulted in several litigations between them in the family court and other courts and also initiation of this case as Crime No.2235/2011 of Kottarakkara police Station, under Section 498(A) read with Section 34 of Indian Penal Code against the petitioners. After investigation, final report was filed and the case was taken Crl.M.C. No.967 of 2014 3 on the file as C.C.No.1846/2013 on the file of the Judicial First Class Magistrate Court-I, Kottarakkara. The matter has been settled between the parties, which is evidenced by the affidavit filed by the 2nd respondent.

6. The counsel for the 2nd respondent also submitted that the matter has been settled and the marital tie between the first petitioner and the 2nd respondent was dissolved by orders of the family court. The 2nd respondent has no complaint against the petitioners and she has no objection in quashing the proceedings. In the decision reported in *Gian Singh v. State of Punjab* [2012(4) KLT108(SC)], the Hon'ble Supreme Court has held that, in family disputes, if the parties have settled the issues, due to the intervention of well-wishers and the family members and does not want to proceed with the criminal prosecution initiated, then that must be honoured and the prosecution has to be quashed, invoking the power under Section 482 of the Code. Crl.M.C. No.967 of 2014 4 It is a family dispute and the matter has been settled between the parties due to the intervention of family members and well-wishers, I feel that it is a fit case where the power under

Section 482 of the 'Code' has to be invoked to quash the proceedings, as no purpose will be served in allowing the prosecution to continue, since the defacto-complainant will not support the prosecution. So, the petition is allowed and the proceeding in C.C.No.1846/2013 (Crime No. 2235/2011 of Kottarakkara Police Station) pending before the Judicial First Class Magistrate Court-I, Kottarakkara against the petitioners is quashed. Office is directed to communicate this order to the concerned magistrate court for further action. Sd/- K. Ramakrishnan, Judge // True Copy // P.A. to Judge ss

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