

Raashid Vs. State of Kerala

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Court : Kerala

Decided On : Sep-22-2014

Judge : Honourable Mr.Justice V.K.Mohanan

Appellant : Raashid

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE V.K.MOHANAN MONDAY, THE 22D DAY OF SEPTEMBER 2014 31ST BHADRA, 1936 CrI.MC.No. 5338 of 2014 ()
----- AGAINST THE

ORDER

IN CC8542014 of J.M.F.C., VADAKARA CRIME NO. 158/2014 OF EDACHERRY POLICE STATION , KOZHIKODE PETITIONER(S)/PETITIONER/ACCUSED:
----- 1. RAASHID AGED 32 YEARS S/O.IBRAHIM, FAREEDA MANZIL, ORKKATTERY P O VATAKARA TALUK , PIN-673524 2. IBRAHIM HAJI AGED 65 YEARS FAREEDA MANZIL, ORKKATTERY P O, VATAKARA TALUK PIN-673524 3. ALEEMA W/O.IBRAHIM HAJI, FAREEDA ORKKATTERY P O VATAKARA TALUK , PIN-673524 4. HASEENA AGED 26 YEARS D/O.IBRAHIM HAJI, FAREEDA ORKKATTERY P O VATAKARA TALUK , PIN-673524 BY ADV. SMT.K.DEEPA (PAYYANUR) RESPONDENT(S)/RESPONDENTS:
----- 1. STATE OF KERALA REP BY THE PUBLIC

PROSECUTOR, HIGH COURT OF KERALA ERNAKULAM2 SUHAINA
D/O.MUHAMMED HANEEFA, KAMMANA HOUSE, MEPPAYOOR AMSOM
KEEZPAYOOR DESOM, KOYILANDY TALUK-673524 BYR2PUBLIC
PROSECUTORSMT. R. REMA BY ADV. SMT.CELINE JOSEPH COURT ONTHIS
SAME DAYMISC. THECRIMINAL PASSED THE FOLLOWING: CASE HAVING
COME UP FOR ADMISSION ON2209-2014, THE CrI.MC.No. 5338 of 2014 ()

----- APPENDIX PETITIONER(S)' EXHIBITS -----
ANNXURE1A CERTIFIED COPY OF THE FIS AND FIR OF CRIME NO1582014
OF THE EDACHERRY POLICE STATION, KOZHIKODE ANNEXURE II:-TRUE
COPY OF THE CHARGE OF CRIME NO1582014 OF THE EDACHERRY
POLICE STATION, KOZHIKODE ANNEXURE III:-THE TRUE COPY OF THE
AGREEMENT ANNEXURE IV:-AFFIDAVIT FILED BY THE2D RESPONDENT
V.K.MOHANAN, J.

----- CrI.M.C.No. 5338 of 2014 ----- Dated this the day of 22nd
September, 2014

ORDER

The above petition is filed under Section 482 of the Criminal Procedure Code (for short 'Cr.P.C.') at the instance of the petitioners, who are the accused in C.C.No. 854 of 2014 on the file of the Judicial First ClassMagistrate, Vatakara which is a case instituted upon the police report in Crime No. 158/2014 of Edachery Police Station for the offences punishable under Sections 354, 406 and 498 A read with Sec. 34 of I.P.C. with a prayer to quash Annexure - II charge and all further proceedings thereon, as the matter is settled out of court.

2. The allegation in the above case is that the first accused married the de facto complainant on 4-10-2010 and after the marriage they were residing together as husband and wife in the CrI.M.C.No. 5338 of 2014 :-2-: house of the accused. While so, all the accused, demanding more dowry, physically and mentally tortured the de facto complainant, and now, the case of the petitioners is that the matter is settled out of court.

3. Heard the learned counsel for the petitioners as well as the XX respondent. I have also heard the learned Public Prosecutor.
4. The learned counsel for the petitioners submitted that during the pendency of the above case/crime, the matter is settled amicably between the parties to the dispute which is the subject matter of the above crime/case. Therefore, the continuation of the proceedings in the above case/crime is abuse of process of law and proceedings.
5. The learned counsel for the 2nd respondent, who on the basis of specific instruction received from the 2nd respondent, submitted that the above respondent, who is the de facto complainant Crl.M.C.No. 5338 of 2014 :-3-: does not intend to proceed any further against the petitioners and she/he has no grievance against them.
6. I have carefully considered the above submissions of the respective counsel. I have verified the documents and materials produced along with the above petition. In the given facts and circumstances of the case and especially in the light of the settlement arrived between the parties to the dispute, the learned Public Prosecutor has also no objection in allowing the above petition.
7. Having regard to the facts and circumstances involved in the case, it can be seen that the offences involved in the above case are only under Sections 354, 406 and 498 A read with Sec. 34 IPC which are more or less personal in nature and no public interest is involved. It is pertinent to note that though such offences are involved, the real parties to the dispute approached this Court after having amicably settled the matter. From the submission made by Crl.M.C.No. 5338 of 2014 :-4-: the counsel for the 2nd respondent, it appears to me that the the de facto complainant has no further grievance against the petitioners/accused in the light of the settlement arrived by them. In this juncture, it is relevant to note the decision of the Honourable Apex Court reported in Gian Singh v. State of Punjab [2012(4) KLT108SC)], in which case, the Supreme Court has held as follows:- "57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to

a criminal court for compounding the offences under S.320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz;(i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R. may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed.. It is further held as follows:- "..... But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial,mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation Crl.M.C.No. 5338 of 2014 :-5-: of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim....." According to me, in the light of the facts and circumstances involved in the present case and particularly in view of the settlement arrived in the present case, the dictum laid in the above decision is applicable in the present case. Thus, I am of the view that as the parties to the dispute settled the issues amicably, it is the duty of this Court to promote and encourage such settlement, instead of compelling the parties to go on with the dispute. It is pertinent to note that since the matter is settled out of court, in the event of proceeding with the trial, there would not have any fruitful prosecution resulting the conviction of the accused, rather the net result would be sheer waste of judicial time and abuse of process of the court and proceedings. Thus, according to me, following the decisions cited supra, this Criminal M.C. can be allowed granting the relief as sought for. In the result, this Crl.M.C. is allowed, quashing Annexure - II Crl.M.C.No. 5338 of 2014 :-6-: charge and all further proceedings thereto pending against the petitioners in C.C.No. 854/2014 on the file of the Judicial First Class Magistrate, Vatakara in Crime No. 158/2014 of

Edacherry Police Station, Kozhikode District . Dated this the 22nd day of September, 2014. Sd/- V.K.MOHANAN, Judge ani/ /true copy/ P.S. To Judge Crl.M.C.No. 5338 of 2014 :-7-:

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