

Shamon vs State of Kerala

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Court : Kerala

Decided On : Feb-27-2025

Judge : Honourable Mr.Justice C. Jayachandran

Appeal No. : Crl.MC/604/2025

Appellant : Shamon

Respondent : State of Kerala

Judgement :

CRL.MC NO. 604 OF 2025 1 2025:KER:18232

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C. JAYACHANDRAN
THURSDAY, THE 27TH DAY OF FEBRUARY 2025 / 8TH PHALGUNA,
1946 CRL.MC NO. 604 OF 2025 CRIME NO.1683/2024 OF
Kayamkulam Police Station, Alappuzha PETITIONER/SOLE ACCUSED:
SHAMON AGED 22 YEARS S/O. SHARAFUDEEN, KOTTAKUZHIYIL
VEETTIL, NEAR MSM SCHOOL, KAYAMKULAM MURI, KAYAMKULAM
VILLAGE, ALAPPUZHA DISTRICT, PIN - 690516 BY ADVS. OMAR
SALIM K. REMIYA RAMACHANDRAN A.N.BIJU AJISHA M.S. ASHISH
ABY DAVID BALASUBRAMANYAN PRIYANKA SUSAN RAJU

RESPONDENTS/STATE/COMPLAINANT AND DEFACTO
COMPLAINANT: 1 STATE OF KERALA REPRESENTED BY PUBLIC
PROSECUTOR,HIGH COURT OF KERALA,ERNAKULAM, PIN -
682031 2 SAJITHA ARSHAD AGED 46 YEARS, W/O. IRSHAD,
PATHIRUPARAMPIL, KAYAMKULAM MURI, KAYAMKULAM VILLAGE,
ALAPPUZHA DISTRICT, PIN - BY ADV P.ABDUL NISHAD SMT. C.
SEENA (PP) THIS CRIMINAL MISC. CASE HAVING COME UP FOR
ADMISSION ON 27.02.2025, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING: CRL.MC NO. 604 OF 2025 2
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C. JAYACHANDRAN, J.

----- Crl.M.C.No.604 of 2025
----- Dated, this the 27th day of February, 2025

ORDER

A five Judges Bench of the Punjab and Haryana High Court in Kulwinder Singh and Others v. State of Punjab and Another [(2007) 4 CTC 769], framed broad guidelines as regards quashment of the criminal proceedings under Section 482 of the Code in respect of offences which are not compoundable in terms of Section 320 of the Code. One among the guidelines was that the offences against human body, other than murder and culpable homicide, may be permitted to be compounded, when the court is in a position to record a finding that the settlement between the parties is voluntary and fair. These guidelines were quoted with approval by a three Judges Bench of the Hon'ble Supreme Court in Gian Singh v. State of Punjab and another [(2012) 10 SCC 303]. Similarly in Narinder Singh and Others v. State of Punjab [(2014) 6 SCC 466],

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the Hon'ble Supreme Court has gone to the extent of sanctioning invocation of the inherent power under Section 482 of the Criminal Procedure Code to quash the F.I.R. in a crime alleging offence under Section 307, which is a heinous and serious offence. A practical approach is seen adopted by the Hon'ble Supreme in Madan Mohan Abbot v. State of Punjab [(2008) 4 SCC 582] as regards quashment in respect of offences like 379, 406, 409, 418, etc., the relevant findings of which are extracted herebelow:

6. We need to emphasise that it is perhaps advisable that in disputes where the question involved is of a purely personal nature, the court should ordinarily accept the terms of the compromise even in criminal proceedings as keeping the matter alive with no possibility of a result in favour of the prosecution is a luxury which the courts, grossly overburdened as they are, cannot afford and that the time so saved can be utilised in deciding more effective and meaningful litigation. This is a common sense approach to the matter based on ground of realities and bereft of the technicalities of the law.

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2. In the facts at hand, petitioner is the sole

accused in Crime No.1683/2024 of Kayamkulam Police Station, Alappuzha. The offences alleged are under Section 67 of the Bharatiya Nyaya Sanhita, 2023 and Section 66(E) of the Information Technology Act, 2000. The petitioner seeks quashment of entire proceedings in the above crime, on the strength of the settlement arrived at by and between the parties.

3. Heard the learned counsel for the petitioner, learned counsel for the defacto complainant/respondent no.2 and the learned Public Prosecutor. Perused the records.

4. When this Crl.M.C was moved, this Court directed

to record the statement of the defacto complainant. The said direction was complied and the statement was handed over. On perusal of the same, it is clear that the

issues between the petitioner and the defacto

complainant are settled and that the defacto complainant is disinterested to proceed further with the prosecution CRL.MC NO. 604 OF 2025 5 2025:KER:18232

case against the petitioner. That apart, it is noticed that, along with this Crl.M.C, an affidavit has been sworn to by the defacto complainant (2nd respondent herein) as Annexure-A2, wherein she would unequivocally state that the disputes have been settled amicably and that the complaint emanated from some mistake. The defacto complainant would also swear that she has no grievance against the petitioner and that they have decided to get married. The defacto complainant has no objection in quashing the criminal proceedings against the petitioner and that the affidavit is sworn to on her own volition, without any compulsion, whatsoever. This Court, is therefore, convinced that the settlement arrived at is genuine and bonafide. Learned Counsel for the 2nd respondent/defacto complainant would also endorse that the quashment sought for can be allowed.

5. In the light of the above referred facts, this Court is of the opinion that the necessary parameters, as culled out in Narinder Singh (supra), Madan Mohan Abbot (supra) and Gian Singh (Supra), are fully CRL.MC NO. 604 OF 2025 6 2025:KER:18232

satisfied. This Court is convinced that further proceedings against the petitioner will be a futile exercise, inasmuch as the disputes have already been settled. There is little possibility of any conviction in the crime.

Dehors the settlement arrived at by and between the parties, if they are compelled to face the criminal proceedings, the same, in the estimation of this Court, will amount to abuse of process of Court. The quashment sought for would secure the ends of justice.

In the circumstances, this Crl.M.C. is allowed. Annexure-A1 F.I.R., in Crime No.1683/2024 and all further proceedings pursuant thereto, are hereby quashed.
Sd/- C. JAYACHANDRAN JUDGE ska CRL.MC NO. 604 OF 2025 7
2025:KER:18232 APPENDIX OF CRL.MC 604/2025 PETITIONER ANNEXURES
Annexure A1 THE CERTIFIED COPY OF THE FIRST INFORMATION REPORT
DATED 28/10/2024 IN CRIME NO. ALAPPUZHA DISTRICT BEFORE THE
JUDICIAL MAGISTRATE OF FIRST CLASS-I, KAYAMKULAM Annexure A2 THE
ORIGINAL OF THE AFFIDAVIT DATED

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