

Kumar Shibu vs State of Kerala

Kumar Shibu vs State of Kerala

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Court : Kerala

Decided On : Feb-21-2025

Judge : Honourable Mr.Justice C. Jayachandran

Appeal No. : Crl.MC/1190/2025

Appellant : Kumar Shibu

Respondent : State of Kerala

Judgement :

CRL.MC NO. 1190 OF 2025 1 2025:KER:15402

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C. JAYACHANDRAN
FRIDAY, THE 21ST DAY OF FEBRUARY 2025 / 2ND PHALGUNA,
1946 CRL.MC NO. 1190 OF 2025 CRIME NO.1545/2014 OF
Venjaramoodu Police Station, Thiruvananthapuram AGAINST THE
ORDER/JUDGMENT IN CC NO.21 OF 2015 OF JUDICIAL
MAGISTRATE OF FIRST CLASS -I,NEDUMANGAD
PETITIONERS/ACCUSED 1 TO 4:

1 KUMAR SHIBU AGED 49 YEARS S/O SOMASEKHARAN RESIDING KAMUKUMCODE, KAZHUNADU, VATTAPARA P.O, VATTAPPARA VILLAGE, NEDUMANGAD TALUK, THIRUVANANTHAPURAM DISTRICT, PIN - 695607 2 SHIBU AGED 48 YEARS S/O SASIDHARAN RESIDING VEEDU, KRISHNASHTAMI, KUTTIMOODU NELLANADU, P.O, NELLANADU VILLAGE, NEDUMANGAD TALUK, THIRUVANANTHAPURAM DISTRICT, PIN - 3 ADARSH AGED 46 YEARS S/O SASIDHARAN RESIDING THADATHARIKATHU, KUTTIMOODU NELLANADU, P.O, NELLANADU VILLAGE, NEDUMANGAD TALUK, THIRUVANANTHAPURAM DISTRICT, PIN - 695607 4 VINU AGED 46 YEARS

CRL.MC NO. 1190 OF 2025 2 2025:KER:15402 S/O MANIYAN RESIDING AT PADINJAREVILA HOUSE, KATTAYIKKONAM, KATTAYIKKONAM P.O, AYIROOPARA VILLAGE, THIRUVANANTHAPURAM TALUK, THIRUVANANTHAPURAM DISTRICT, PIN - 695584 BY ADV MOHAMMED MUSHTHAQ S. RESPONDENTS/STATE AND DE FACTO COMPLAINANT:

1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031 2 SEENA AGED 42 YEARS D/O LEELA RESIDING DEVADARU HOUSE, KUTTIMOODU NELLANADU, P.O, NELLANADU VILLAGE, NEDUMANGAD TALUK, THIRUVANANTHAPURAM DISTRICT, PIN - 695607 3 BIJU AGED 48 YEARS S/O DIVAKARAN RESIDING DEVADARU HOUSE, KUTTIMOODU NELLANADU, P.O, NELLANADU VILLAGE, NEDUMANGAD TALUK, THIRUVANANTHAPURAM DISTRICT, PIN - 695607

BY ADV HARIKRISHNAN P. OTHER PRESENT: SRI. E.C BINEESH (PP) THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 21.02.2025, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: CRL.MC NO. 1190 OF 2025 3

C. JAYACHANDRAN, J.

----- Crl.M.C.No.1190 of 2025

----- Dated, this the 21st 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],

CRL.MC NO. 1190 OF 2025 4 2025:KER:15402

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

CRL.MC NO. 1190 OF 2025 5 2025:KER:15402 law.

2. In the facts at hand, petitioners are accused

nos.1 to 4 in Crime No.1545 of 2014 of Venjaramoodu Police Station, Thiruvananthapuram, now pending as C.C.No.21/2015 before the Judicial First Class Magistrate Court-I, Nedumangad. As per the final report the offences alleged are under Sections 323 and 324 and r/w 34 of the Indian Penal Code. The petitioners seek quashment of entire proceedings in the above Calendar Case, on the strength of the settlement arrived at by and between the parties.

3. Heard the learned counsel for the petitioners, learned counsel for the defacto complainant/respondent no.2 and respondent no.3 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 statements of the CRL.MC NO. 1190 OF 2025 6 2025:KER:15402

defacto complainant and the 3rd respondent (injured), were handed over. On perusal of the same, it is clear that the issues between the petitioners, the defacto complainant and the injured are settled amicably and that the instant Crl.M.C was filed with the knowledge and consent of

the defacto complainant and the injured, wherefore they are disinterested to proceed with the prosecution case against the petitioners. That apart, it is noticed that, along with this Crl.M.C, affidavits have been sworn to by the defacto complainant (2nd respondent herein) and the 3rd respondent as Annexures- A3 and A4, wherein they would unequivocally state that the disputes have been settled and that they do not want to proceed with the prosecution case, any further. They would also swear that they have no objection in quashing the criminal proceedings against the petitioners and that the affidavits are sworn to on their own volition. This Court, is therefore, convinced that the settlement arrived at is genuine and bonafide.

CRL.MC NO. 1190 OF 2025 7 2025:KER:15402 Learned Counsel for the 2nd and 3rd respondents 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 satisfied. This Court is convinced that further proceedings against the petitioners 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. This Court also notice that offence under Section 323 is compoundable, which is all the more a reason to accept the compromise between the parties.

CRL.MC NO. 1190 OF 2025 8 2025:KER:15402 In the circumstances, this Crl.M.C. is allowed. Annexure-A2 Final Report in Crime no.1545 of 2014 and all further proceedings in C.C.No.21/2015 of the Judicial First Class Magistrate Court-I, Nedumangad, are hereby quashed.

Sd/- C. JAYACHANDRAN JUDGE ska CRL.MC NO. 1190 OF 2025 9
2025:KER:15402 APPENDIX OF CRL.MC 1190/2025 PETITIONER ANNEXURES
Annexure A1 A CERTIFIED COPY OF THE FIR DATED 5.10.2014 IN CRIME NO.
1545/2014 OF THE VENJARAMMOODU POLICE STATION Annexure A2 A
CERTIFIED COPY OF THE FINAL REPORT DATED 13.01.2015 IN C.C.NO:
21/2015 ON THE FILES OF THE JUDICIAL MAGISTRATE OF FIRST CLASS-L,
NEDUMANGAD Annexure A3 THE AFFIDAVIT DATED 19.11.2024 SWORN BY
THE 2ND RESPONDENT Annexure A4 THE AFFIDAVIT DATED 19.11.2024
SWORN BY THE 3RD RESPONDENT

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