

Nandagopal, vs the State of Kerala,

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Court : Kerala

Decided On : Feb-28-2025

Judge : Honourable Mr.Justice C. Jayachandran

Appeal No. : Crl.MC/3931/2021

Appellant : Nandagopal,

Respondent : The State of Kerala,

Judgement :

-: 1 :-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C. JAYACHANDRAN
FRIDAY, THE 28TH DAY OF FEBRUARY 2025 / 9TH PHALGUNA,
1946 CRL.MC NO. 3931 OF 2021 CRIME NO.146/2021 OF CHITTUR
POLICE STATION, PALAKKAD SEEKING TO QUASH THE FINAL
REPORT IN CC NO.348 OF 2021 OF JUDICIAL MAGISTRATE OF
FIRST CLASS ,CHITTUR PETITIONER/ACCUSED: NANDAGOPAL,
AGED 56 YEARS S/O. KARUPPASWAMY, AYYAVUCHALLA,
KUNNAMKATTUPATHY, KOZHIPATHY, CHITTUR, PALAKKAD
DISTRICT, PIN-678 555 BY ADV BINOY VASUDEVAN

RESPONDENT/STATE & COMPLAINANT:

1 THE STATE OF KERALA, REPRESENTED BY THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM-682 031 2
THE STATION HOUSE OFFICER, CHITTUR POLICE STATION,
CHITTUR P.O, PALAKKAD DISTRICT, PIN-678 101 -: 2 :- 3
HAMSAVENI, AGED 54 YEARS W/O. NANDAGOPAL,
AYYAVUCHALLA, KUNNAMKATTUPATHY, KOZHIPATHY, CHITTUR,
PALAKKAD DISTRICT, PIN-678 555 BY ADVS. P.R.VENKATESH
G.KEERTHIVAS C.N. PRABHAKARAN, SENIOR PUBLIC
PROSECUTOR THIS CRIMINAL MISC. CASE HAVING COME UP FOR
ADMISSION ON 28.02.2025, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING: -: 3 :-

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], 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

-: 4 :-

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 Court 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 here below:

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.

2. In the facts at hand, petitioner is the sole accused in Crime No.146 of 2021 of Chittur Police Station, Palakkad, -: 5 :-

now pending as C.C.No.348/2021 before the Judicial First Class Magistrate Court, Chittur. As per the Final Report, the offence alleged is under Section 31 of the Protection of Women from Domestic Violence Act, 2005. The petitioner seeks 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 petitioner; learned counsel for the defacto complainant/3 rd respondent and the learned Senior Public Prosecutor. Perused the records.

4. In this case, it is noticed that an affidavit of the

defacto complainant endorsing the factum of settlement is not appended with the CrI.M.C. However, when this CrI.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 -: 6 :- defacto complainant have been settled and that they are living separately. Furthermore, the defacto complainant has received her compensation from the petitioner and the instant Crl.M.C was filed with her knowledge; wherefore, she

has no objection in quashing the criminal proceedings against the petitioner. In the circumstances, the absence of the affidavit of the 3rd respondent need not stand in the way of the relief sought for. Moreover, learned counsel for the 3rd respondent would submit that the quashment sought for can be allowed in view of the settlement arrived at. This Court is therefore convinced that the settlement arrived at is genuine and bonafide.

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 petitioner will be a futile exercise, inasmuch as the disputes have -: 7 :- 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.

6. In the circumstances, this Crl.M.C. is allowed.

Annexure-E FIR, Annexure-F Final Report and all further proceedings in C.C.No.348/2021 of the Judicial First Class Magistrate Court, Chittur, are hereby quashed.

Sd/- C.JAYACHANDRAN, JUDGE ww -: 8 :- APPENDIX OF CRL.MC 3931/2021 PETITIONER ANNEXURES ANNEXURE A TRUE COPY OF DOCUMENT NO. 2168/2015 OF S.R.O. KOZHINJAMPARA. ANNEXURE B TRUE COPY OF THE ORDER DATED 20.03.2019 IN CRL.M.P NO.2719/2019 IN M.C. NO. FIRST CLASS MAGISTRATE COURT, CHITTUR. ANNEXURE C TRUE COPY OF THE

COUNTER AFFIDAVIT PREFERRED BY THE 3RD RESPONDENT AND HER SON IN W.P.(C) NO. 9296/2021. ANNEXURE D CERTIFIED COPY OF C.M.P NO. 1747/2021 PREFERRED BY THE 3RD RESPONDENT UNDER SECTION 31 OF THE DOMESTIC VIOLENCE ACT, 2005 ON 19.04.2021. ANNEXURE E CERTIFIED COPY OF THE FIR IN CRIME NO. ANNEXURE F CERTIFIED COPY OF THE FINAL REPORT IN

C.C. NO.348/2021 DATED 06.08.2021 ON THE FILE OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT, CHITTUR. ANNEXURE G TRUE COPY OF THE JUDGMENT REPORTED IN SHANAVAS VS. STATE OF KERALA (2014 (1) KLT 579.

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