

Jomon vs Suma

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Court : Kerala

Decided On : Mar-10-2025

Judge : Honourable Mr.Justice C. Jayachandran

Appeal No. : Crl.MC/9368/2023

Appellant : JOMON

Respondent : SUMA

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C. JAYACHANDRAN
MONDAY, THE 10TH DAY OF MARCH 2025 / 19TH PHALGUNA, 1946
CRL.MC NO. 9368 OF 2023 CRIME NO.311/2015 OF Binanipuram
Police Station, Ernakulam AGAINST THE ORDER/JUDGMENT DATED
IN CC NO.681 OF 2020 OF JUDICIAL MAGISTRATE OF FIRST CLASS
-II, ALUVA PETITIONER/1ST ACCUSED: 1 JOMON AGED 46 YEARS
S/O. ITTY KURIAN, MOOLAN HOUSE, FIRST LANE ROAD
KONGORPILLY.P.O., ALANGAD, ERNAKULAM DISTRICT, PIN -
683518 2 SEEMA JOMON AGED 43 YEARS W/O JOMON, MOOLAN
HOUSE, FIRST LANE ROAD KONGORPILLY.P.O., ALANGAD,
ERNAKULAM DISTRICT, PIN - 683518 BY ADV VINOD S. PILLAI

RESPONDENTS/DEFACTO COMPLAINANT:

1 SUMA AGED 48 YEARS W/O SHAJIMON, PAPPALY HOUSE, FIRST LINE ROAD, KONGORPILLY.P.O., ALANGAD, ERNAKULAM DISTRICT, PIN - 683518 2 SHAJIMON AGED 52 YEARS S/O YOHANNAN PAPPALY HOUSE, FIRST LINE ROAD :2: KONGORPILLY.P.O., ALANGAD, ERNAKULAM DISTRICT, PIN - 683518 3 FEBA MARIYAM AGED 15 YEARS D/O SHAJIMON, PAPPALY HOUSE, FIRST LINE ROAD KONGORPILLY.P.O., ALANGAD, ERNAKULAM DISTRICT, PIN- 683518, REPRESENTED BY NEXT FRIEND AND GUARDIAN, 1ST RESPONDENT, SUMA, AGED 48 YEARS W/O SHAJIMON, PAPPALY HOUSE, FIRST LINE ROAD, KONGORPILLY.P.O., ALANGAD, ERNAKULAM DISTRICT, PIN - 683518 4 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031

SRI. SANAL P. RAJ (PP) THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 10.03.2025, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: :3:

C.JAYACHANDRAN, J.

----- Dated this the
10th day of March, 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], 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.

2. In the facts at hand, petitioners are the

accused persons in Crime No.311 of 2015 of Binanipuram Police Station, Ernakulam, now pending as C.C.No.681/2015 before the Judicial First Class Magistrate Court-II, Aluva. The offences alleged are under Section 323, 324 and 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.

4. Heard the learned counsel for the petitioners,

learned counsel for the defacto compla

:6: records.

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

to record the statement of the respondents 1 to 3. The said direction was complied and their statements were handed over. On perusal of the same, it is clear that the instant Crl.M.C was filed with the knowledge of the respondents 1 to 3, wherefore, they have no objection in quashing the criminal proceedings against the petitioners. That apart, it is noticed that, along with this Crl.M.C, an affidavit has been sworn to by the defacto complainant (1st respondent herein) as Annexure-A3,

wherein she would unequivocally state

defacto complainant would also swear that she has no surviving grievance against the petitioners and that she does not intend to proceed against the petitioners, any further. The affidavit is sworn to :7: on her own volition. This Court also perused Annexure-A4 affidavit sworn to by the 2 nd respondent and Annexure-A5 affidavit sworn to by the defacto complainant on behalf of the 3rd respondent (minor), wherein, they would also vouch the factum of settlement claimed by the petitioners. This Court is therefore convinced that the settlement arrived at is genuine and bonafide. Learned counsel for the respondents 1 to 3 would also endorse that the quashment sought for can be allowed.

6. 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

:8: 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.

In the circumstances, this Crl.M.C. is allowed. Annexure-A2 Final Report, and all further proceedings in C.C.No.681/2015 of the Judicial First Class Magistrate Court-II, Aluva, are hereby quashed. Sd/- C. JAYACHANDRAN, JUDGE. Raj. :9:
APPENDIX OF CRL.MC 9368/2023 PETITIONER ANNEXURES Annexure A1
CERTIFIED COPY OF THE FIRST INFORMATION REPORT IN CRIME
NO:311/2015 OF BINANIPURAM POLICE STATION DATED 26.05.2015
Annexure A2 CERTIFICATE COPY OF THE FINAL REPORT

DATED 30.05.2015 IN C.C.NO:681/2015 ON THE FILE OF JUDICIAL FIRST
CLASS MAGISTRATE COURT-II COURT, ALUVA ARISING OUT OF CRIME
NO:311/2015 OF BINANIPURAM POLICE STATION Annexure A3 TRUE COPY
OF THE AFFIDAVIT SWORN BY THE 1ST RESPONDENT/DE-FACTO
COMPLAINANT DATED 18.10.2023 Annexure A4 TRUE COPY OF THE
AFFIDAVIT SWORN BY THE 2ND RESPONDENT DATED 18.10.2023 Annexure
A5 TRUE COPY OF THE AFFIDAVIT SWORN BY THE 1ST RESPONDENT ON
BEHALF OF THE 3RD RESPONDENT DATED 18.10.2023

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