

**Ramees vs State of Kerala**

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**Court :** Kerala

**Decided On :** Mar-17-2025

**Judge :** Honourable Mr.Justice C. Jayachandran

**Appeal No. :** Crl.MC/7991/2024

**Appellant :** Ramees

**Respondent :** State of Kerala

**Judgement :**

2025:KER:23836

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C. JAYACHANDRAN  
MONDAY, THE 17TH DAY OF MARCH 2025 / 26TH PHALGUNA, 1946  
CRL.MC NO. 7991 OF 2024 CRIME NO.355/2024 OF Beypore Police  
Station, Kozhikode PETITIONER/ACCUSED NO.1: RAMEES AGED 33  
YEARS S/O ABOOBACKER, ARAKINAR, KOZHIKODE CITY,  
KOZHIKODE DISTRICT, PIN - 673001 BY ADVS. VISHNU  
NARAYANAN ANGEL WILSON E. RESPONDENTS/STATE AND  
DEFACTO COMPLAINANT: 1 STATE OF KERALA REPRESENTED BY  
PUBLIC PROSECUTOR,HIGH COURT OF KERALA, ERNAKULAM,

PIN - 682031 2 FAHIMA T K P AGED 30 YEARS S/O MUHAMMED ALI, RESIDING AT FASEELALI HOUSE, VELLIPARAMBA, KOZHIKODE DISTRICT, PIN - 673008 OTHER PRESENT: SRI. SANAL P. RAJ (PP) R2-SHENI KRISHNA R.N THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 17.03.2025, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: -2-

**C. JAYACHANDRAN, J.**

----- Crl.M.C.No.7991 of 2024  
----- Dated, this the 17th day of March, 2025

## **ORDER**

B.S.Joshi and Others v. State of Haryana and another

[(2003) 4 SCC 675] held that the offence

Cr.P.C (now Section 528 of BNSS, 2023), though such offence is not compoundable under Section 320. Relying on State of Karnataka v. L. Muniswamy [(1977) 2 SCC 699], a two Judges Bench in B.S. Joshi (Supra)

### **held that ends of justice are higher than ends of**

mere law, though justice has got to be administered according to laws made by legislature. The fact that there is no reasonable likelihood of conviction, in the wake of settlement between the parties, was taken stock of. The following findings in B.S.Joshi (supra) are relevant and extracted here below:

-3- What would happen to the trial of the case where the wife does not support the imputations made in the FIR of the type in question. As earlier noticed, now she has filed an affidavit that the FIR was registered at her instance due to temperamental differences and implied imputations. There may be many reasons for not supporting the imputations. It may be either for the reason that she has resolved

disputes with her husband and his other family members and as a result thereof she has again started living with her husband, with whom she earlier had differences or she has willingly parted company and is living happily on her own or has married someone else on the earlier marriage having been dissolved by divorce on consent of parties or fails to support the prosecution on some other similar grounds. In such eventuality, there would almost be no chance of conviction. Would it then be proper to decline to exercise power of quashing on the ground that it would be permitting the parties to compound non-compoundable offences? The answer clearly has to be in the "negative". It would, however, be a

### **different matter if the High Court on facts**

declines the prayer for quashing for any -4- valid reasons including lack of bona fides.

2. The dictum laid down in B.S.Joshi (supra) was doubted along with that laid down in other cases and referred to and considered by a three Judges Bench of the Hon'ble Supreme Court in Gian Singh v. State of

Punjab and another [(2012) 10 SCC 303]. B.S.Joshi (supra), along with other cases, were confirmed by the Supreme Court. It is relevant to note that the subject matter in B.S.Joshi (supra) was specifically with reference to the offences under Section 498A and 406 of the Indian Penal Code.

3. In the facts at hand, petitioner is the sole accused in Crime No.355/2024 of Beypore Police

Station, Kozhikode. The offence alleged is under Section 498A of the Indian Penal Code. The petitioner seeks quashment of entire proceedings in the above crime, on the strength of the settlement arrived at by and between the parties.

4. Heard the learned counsel for the petitioner, -5- learned counsel for the defacto complainant/2nd respondent and the learned Public Prosecutor. Perused the records.

5. 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 they have mutually

decided to dissolve their marriage. The defacto complainant is disinterested to proceed with the prosecution case, any further, and that she has no objection in quashing the criminal proceedings against the petitioner. That apart, it is noticed that, along with this Crl.M.C, a notarised affidavit

has been sworn to by the defacto compl

amicably settled. The defacto complainant would also swear that she has no subsisting grievance against -6- the petitioner and has no objection in quashing the proceedings against the petitioner. 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 defacto complainant/2nd respondent 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 B.S.Joshi (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 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 -7- quashment sought for would secure the ends of justice. In the circumstances, this Crl.M.C. is allowed. Annexure I FIR in Crime No.355/2024 of Beypore Police

Station, Kozhikode, and all further proceedings pursuant thereto, are hereby quashed. Sd/- C. JAYACHANDRAN JUDGE ska -8- APPENDIX OF CRL.MC 7991/2024 PETITIONER ANNEXURES Annexure A1 CERTIFIED COPY OF THE FIR IN CRIME NO. 355 OF 2024 OF THE BEYPORE POLICE STATION,

KOZHIKODE DATED 17-08-2024, Annexure A2 THE ORIGINAL COPY OF THE AFFIDAVIT OF THE 2ND RESPONDENT DATED 23-08-2024 RESPONDENTS' ANNEXURES: NIL TRUE COPY P.A. TO JUDGE

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