

Eldho Alias vs State of Kerala

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Court : Kerala

Decided On : Mar-07-2025

Judge : Honourable Mr.Justice C. Jayachandran

Appeal No. : Crl.MC/8215/2024

Appellant : Eldho Alias

Respondent : State of Kerala

Judgement :

2025:KER:22711

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C. JAYACHANDRAN
FRIDAY, THE 7TH DAY OF MARCH 2025 / 16TH PHALGUNA, 1946
CRL.MC NO. 8215 OF 2024 CRIME NO.1245/2019 OF
NEDUMBASSERY POLICE STATION, Ernakulam AGAINST THE
ORDER/JUDGMENT IN CC NO.813 OF 2020 OF JUDICIAL FIRST
CLASS MAGISTRATE COURT, ANGAMALY PETITIONER/2ND
ACCUSED: ELDHO ALIAS AGED 34 YEARS S/O P.I. ALIAS,
NAMBI RATH, NEDUMBASSERY VILLAGE, MALIKAD, ALUVA
ERAKULAM, PIN - 683589 BY ADV K.P.DHANEESH

RESPONDENTS/STATE & COMPLAINANT:

1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 2 THE STATION HOUSE OFFICER, NEDUMBASSERY AIRPORT POLICE STATION, ERNAKULAM DISTRICT, PIN - 683111 3 SUSHMITHA AGED 26 YEARS W/O. SUBHASH, AZHEEKAL KADAVIL HOUSE, THURTHUSSERY KARA, NEDUMBASSERY VILLAGE, NEDUMBASSERY AIRPORT, ERAKULAM RURAL (RESIDING NOW AT UMMAPUTHEN PARAMBIL(H), NEDUMBASSERY P.O, ERNAKULAM), PIN - 683585 SRI. C.N. PRABHAKARAN (SR.PP) R3-SMT.MAYA .M THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON

07.03.2025, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: -2-

C. JAYACHANDRAN, J.

----- CrI.M.C.No.8215 of 2024
----- Dated, this the 07th 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 -3- 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, petitioner is the 2nd -4- accused in Crime No.1245/2019 of Nedumbassery Police

Station, Ernakulam, now pending as C.C.No.8

alleged are under Sections 384, 201 and 34 of the Indian Penal Code. 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/3rd respondent and the learned Senior 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 amicably and that she is not interested to proceed further with the prosecution case, as against the petitioner. That apart, it is -5- noticed that, along with this Crl.M.C, an affidavit has been sworn to by the defacto complainant (3rd respondent herein) as Annexure-2, wherein she would unequivocally state that the disputes have been amicably settled and that the complaint emanated from

certain misunderstandings. The defacto complainant would also swear that she has no grievance against 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 3 rd 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 satisfied. This Court is convinced that further proceedings against the petitioner will be a futile -6- 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-1 Final Report in Crime no.1245/2019 and all further proceedings in C.C.No.813/2020 of the Judicial First Class Magistrate Court, Angamaly, as against the petitioner are hereby quashed. The 1st accused is no more, wherefore, the case against him will stand abated.

Sd/- C. JAYACHANDRAN JUDGE ska -7- APPENDIX OF CRL.MC 8215/2024
PETITIONER ANNEXURES Annexure 1 TRUE COPY OF THE FINAL REPORT

IN CRIME NO. 1245 OF 2019 OF NEDUMBASSERY POLICE STATION,
ERANAKULAM RURAL Annexure 2 THE ORIGINAL OF THE AFFIDAVIT
SWORN BY THE 3RD RESPONDENT DATED 30.09.2024 RESPONDENTS'
ANNEXURES: NIL TRUE COPY P.A. TO JUDGE

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