

Afsal Mon vs State of Kerala

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Court : Kerala

Decided On : Mar-18-2024

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : Crl.MC/6017/2023

Appellant : Afsal Mon

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS MONDAY, THE 18TH DAY OF MARCH 2024 / 28TH PHALGUNA, 1945 CRL.MC NO. 6017 OF 2023 CRIME NO.2644/2020 OF KODUNGALLUR POLICE STATION, THRISSUR AGAINST THE ORDER DATED IN CC NO.2139 OF 2020 OF JUDICIAL MAGISTRATE OF FIRST CLASS, KODUNGALLUR PETITIONERS/ACCUSED 1 TO 3:

1 AFSAL MON AGED 39 YEARS S/O MAJEED, KALLUNGAL, PUTHANPALLI AZHIKODE, KODUNGALLUR THALUK, THRISSUR, PIN - 680666 2 HAFSA AGED 63 YEARS W/O MAJEED, KALLUNGAL, PUTHANPALLI AZHIKODE, KODUNGALLUR THALUK, THRISSUR,

PIN - 680666 3 ASHKAR AGED 36 YEARS S/O MAJEED, KALLUNGAL,
PUTHANPALLI AZHIKODE, KODUNGALLUR THALUK, THRISSUR,
PIN - 680666 BY ADV MANSOOR ALI

RESPONDENTS/COMPLAINANT/VICTIMS: 1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN -
682031 2 THE STATION HOUSE OFFICER, KODUNGALLUR POLICE STATION
KODUNGALLUR P.O, THRISSUR, PIN - 680664 3 SHAHANA V.N AGED 30
YEARS D/O VALIYAKATH NASAR, CHITHIRAVALLU, KANDAMKULAM P.O,
KODUNGALLUR. THRISSUR., PIN - 680669 OTHER PRESENT: SR PP SMT
NEEMA T V THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 18.03.2024, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: -
:2:- Dated this the 18th day of March, 2024

ORDER

The petition is filed under Section 482 of the Code of Criminal Procedure, 1973, to quash Annexure-A1 First Information Report [FIR] & Annexure-A2 Final report and all further proceedings in C.C.No.2139/2020 of the Judicial First Class Magistrate Court, Kodungallur, Thrissur.

2. The petitioners are the accused 1 to 3 in

Crime No.2644/2020 of the Kodungallur Police Station, Thrissur, registered against them at the instance of the third respondent, for allegedly committing the offences punishable under Sections 498 A and 406 r/w Section 34 of the Indian Penal Code, 1860, and Sections 3 and 4 of the Muslim Women (Protection of Rights of Marriage) Act, 2019 -:3:-

3. The crux of the prosecution is that: the first

petitioner was married to the third respondent. During the period of cohabitation, the accused mentally harassed the third respondent. Thus, the accused have committed the above offences.

4. Heard; Sri. Mansoorali., the learned counsel

appearing for the petitioners, Smt.Seetha.S., the learned Senior Public Prosecutor appearing for the first and second respondents and Sri.Deago John.K, the learned counsel appearing for the third respondent.

5. The learned counsel for the petitioners

submitted that the subject matter in dispute between the petitioners and the third respondent has been amicably settled out of court, and the third respondent has voluntarily executed Annexure A3 affidavit, stating that she has no objection and in all further proceedings in the above crime being quashed. Hence, the petition

-:4:- may be allowed.

6. The learned Public Prosecutor, on instructions,

submitted that the Investigating Officer has ascertained and reported that the subject matter in dispute between the parties has been settled and the third respondent has voluntarily signed Annexure-A3 affidavit.

7. The learned counsel for the third respondent also submitted that the dispute between the parties has been settled and the third respondent has no subsisting grievance as against the petitioners. The said submission is recorded.

8. The Hon'ble Supreme Court in Gian Singh vs.

State of Punjab [2012 (10) SCC 303] and Prabatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and others vs. State of Gujarat and another [(2017) 9 SCC 641] has held that in the facts and circumstances -:5:- of a case and to secure the ends of justice, where the High Court is satisfied that an amicable settlement has been arrived at between the parties and the offences are not serious in nature involving mental depravity, criminal proceedings may be quashed.

9. On a consideration of the facts, the rival submissions made across the Bar, and the materials on record, especially after going through Annexure-A3 affidavit sworn in by the third respondent, which has

been found to be genuine and bona fide by the Investigating Officer, I am convinced and satisfied that this is a fit case to exercise the inherent power of this Court, particularly since the alleged offences are not serious in nature, no public interest is involved, the chances of conviction is remote, the continuation of the proceeding would only be wastage of judicial time and the settlement would augur harmony in society. -:6:- Hence, I am inclined to allow the petition. In the result, the Crl.M.C is allowed by quashing Annexure-A1 First Information Report [FIR] & Annexure-A2 Final report in Crime No.2644/2020 of Kodungallur Police Station, Thrissur and all further proceedings in C.C.No.2139/2020 of the Judicial First Class Magistrate Court, Kodungallur, Thrissur, as against the petitioners.

The Crl.M.C is ordered accordingly. Sd/- C.S.DIAS,JUDGE mtk/18.03.24 -:7:-
APPENDIX OF CRL.MC 6017/2023 PETITIONER ANNEXURES ANNEXURE A1
THE TRUE COPY OF F.I.R. IN CRIME NO.2644 OF 2020 OF KODUNGALLUR
POLICE STATION DATED 02.11.2020 ANNEXURE A2 THE TRUE COPY OF
FINAL REPORT CC MAGISTRATE COURT, KODUNGALLUR DATED
27.11.2020 ANNEXURE A 3 TRUE COPY OF THE AFFIDAVIT SIGNED BY THE
3RD RESPONDENT DATED 20.03.2023

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