

Siraj, vs Hamna,

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Court : Kerala Orders

Decided On : Apr-01-2024

Judge : Honourable Mr. Justice a. Badharudeen

Appeal No. : Crl.MC/5777/2019

Appellant : SIRAJ,

Respondent : HAMNA,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A. BADHARUDEEN MONDAY,
THE 1ST DAY OF APRIL 2024 / 12TH CHAITHRA, 1946 CRL.MC NO. 5777 OF
2019 CRIME NO.728/2016 OF GURUVAYOOR POLICE STATION, THRISSUR
CC NO.4047 OF 2016 OF JUDICIAL MAGISTRATE OF FIRST
CLASS,CHAVAKKAD PETITIONERS:

1 SIRAJ, AGED 42 YEARS S/O.KUNJI MUHAMMED, SHYLA MANZIL ,
GURUVAYUR (P.O), GURUVAYUR, CHAVAKKAD TALUK, THRISSUR
DISTRICT, PIN - 680101. 2 AMINA, AGED 73 YEARS W/O.KUNJI
MUHAMMED, SHYLA MANZIL, GURUVAYUR (P.O), GURUVAYUR,
CHAVAKKAD TALUK, THRISSUR DISTRICT, PIN - 680101. 3 SHYLA,

AGED 52 YEARS W/O.JAMAL, THAMMARATH HOUSE, PALAYUR ROAD, CHAVAKKAD TALUK, THRISSUR DISTRICT,PIN-680 506. 4 SABITHA, AGED 49 YEARS W/O.KABEER, PANIKKAVEETIL, THIRUNELLI VEEDU, CHETTUVA EAST, KUNDALIYOOR P.O., THRISSUR DISTRICT. BY ADVS. RADHAKRISHNA PILLAI.G. SRI.T.A.SHAIN

RESPONDENTS: 1 HAMNA, AGED 32 YEARS D/O.SAYED ABDUL ALAMEED @ AZAD, HOUSE NO.35/H 4 1A3 WELFARE LANE, PALARIVATTOM, SOUTH JANATHA ROAD, ERNAKULAM DISTRICT, PIN-682 025. 2 CIRCLE INSPECTOR OF POLICE, GURUVAYUR TEMPLE POLICE STATION, THRISSUR DISTRICT, PIN- 680 101. CRL.MC NO. 5777 OF 2019 2 3 SUB INSPECTOR OF POLICE, PALARIVATTOM POLICE STATION, PALARIVATTOM, ERNAKULAM DISTRICT, PIN-682 025. 4 STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM DISTRICT - 682 031 R2 TO R4 BY PUBLIC PROSECUTOR SMT.NIMA JACOB THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 01.04.2024, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: CRL.MC NO. 5777 OF 2019 3

ORDER

Dated this the 1st day of April, 2024 This Criminal Miscellaneous Case has been filed under Section 482 of the Code of Criminal Procedure, by the petitioners, who are accused in C.C.No.4047/2016 on the files of the Judicial First Class Magistrate Court, Chavakkad.

2. Heard the learned counsel for the petitioners as well as the learned Public Prosecutor in detail.

3. In this case, initially FIR was lodged alleging

commission of offences punishable under Sections 323, 452, 420, and 498A r/w Section 34 of the IPC. On investigation, the investigating officer deleted all other offences except Section 498A and charge was filed.

4. Though it is argued by the learned counsel for the

petitioners that the statement of the de facto complainant attributing commission of offence punishable under Section 498A of the IPC could not be believed, the same is a matter to be decided during trial. On reading the materials available, the CRL.MC NO. 5777 OF 2019 4 essentials to establish offence under Section 498A of the IPC could be gathered, prima facie. But, the same is a matter to be proved during trial before the trial court, since this case does not warrant quashment. In view of the above observation, this petition is dismissed.

5. Since it is submitted by the learned counsel for the

petitioners that nonailable warrants have been issued against the accused, there shall be a direction to the learned Magistrate to permit the petitioners to continue with the bail bonds already executed, if the bail bonds are not cancelled, or else, release the petitioners on appearance on executing fresh bail bonds without detaining them in custody, since the offence is only under Section 498A of the IPC. The petitioners shall surrender before the court before the next posting date or before that. Coercive steps in view of the nonailable warrants shall stand deferred till the next posting date of the case before the trial court. Sd/- A. BADHARUDEEN JUDGE Bb CRL.MC NO. 5777 OF 2019 5 APPENDIX OF CRL.MC 5777/2019 PETITIONERS ANNEXURES ANNEXURE A1 THE TRUE COPY OF FIR DATED 26.6.2016 REGISTERED BY THE 2ND RESPONDENT ANNEXURE A2 CERTIFIED COPY OF THE FINAL REPORT DATED 3.10.2016 REGISTERED BY THE 2ND RESPONDENT ANNEXURE A3 TRUE PHOTO COPY OF THE FIR DATED 6.4.2013 REGISTERED BY THE 3RD RESPONDENT ANNEXURE A4 TRUE COPY OF THE FINAL REPORT DATED 31.10.2013 RESISTED BY THE 3RD RESPONDENT ANNEXURE A5 TRUE COPY OF THE DIVORCE NOTICE DATED 20.9.2016 SENT BY RESPONDENT NO.1 ANNEXURE A6 TRUE COPY OF MADHYAMAM MALAYALAM NEWS PAPER

DATED 23.9.2016 SHOWING THE DIVORCE NOTICE PRONOUNCED BY THE 1ST RESPONDENT AGAINST THE 1ST PETITIONER ANNEXURE A7 TRUE COPY OF THE INJUNCTION ORDER DATED 10.1.2017 IN IA NO.95/2017 IN OP

NO.73/17 OF FAMILY COURT ERNAKULAM PASSED IN FAVOUR OF PETITIONER NO.1 ANNEXURE A8 TRUE COPY OF THE PRIVATE COMPLAINT DATED 26.9.2017 FILED BY THE 1ST PETITIONER AS CRL.MP.NO.3520/2017 OF JFCM COURT NO.IX, ERNAKULAM ANNEXURE A9 TRUE COPY OF THE JOINT STATEMENT OF WITNESS NO.3 AND 4 FILED BY THEM IN CRL.MP.NO ANNEXURE A10 TRUE COPY OF THE MARRIAGE FORM NUMBERED AS PONNURUNNI ELFATHUL ISLAM SANGAHAM PALARIVATTOM SHOWING THE MARRIAGE OF RESPONDENT NO.1 HAMNA WITH ONE SIDDIQUE DATED 28.12.2016 RESPONDENTS ANNEXURES : NIL

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