

Salim E.a vs State of Kerala

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Court : Kerala

Decided On : Feb-28-2023

Judge : Honourable Mr.Justice K. Babu

Appeal No. : Crl.MC/1086/2023

Appellant : Salim E.a

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE K. BABU TUESDAY, THE 28TH DAY OF FEBRUARY 2023 / 9TH PHALGUNA, 1944 CRL.MC NO. 1086 OF 2023 AGAINST THE ORDER/JUDGMENTCC 418/2021 OF JUDICIAL MAGISTRATE OF FIRST CLASS -II, ALUVA PETITIONERS/ACCUSED 1 TO 3:

1 SALIM E.A AGED 51 YEARS S/O ABDUL KHADER, ITTUNGAL HOUSE, ALUVA THURUTHU, ALUVA CHOWARA, ERNAKULAM, PIN - 683 571. 2 SUNEER T.M AGED 47 YEARS S/O MOOSAKUTTY, THACHUVALLATH HOUSE, BAKERY JUNCTION, ELOOKKARA, NORTH PARAVUR, ERNAKULAM, PIN - 683 571. 3 MUHAMMED

SAKEER A,S, AGED 25 YEARS S/O SIDDIQUE, AMBATTUKUZHI HOUSE, MAHILALAYAM, THOTTUMUGHAM, ALUVA, ERNAKULAM, PIN - 683 571. BY ADVS. P.T.MARY R.S.REJITHA BENRAJ K.R. ACHUTHAN K. NANDA SURENDRAN

RESPONDENT/STATE COMPLAINANT & DE-FACTO COMPLAINANT:
1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682 031. 2 STATION HOUSE OFFICER ALUVA WEST POLICE STATION, KOTTAPURAM ALANGAD, PIN - 683 511. CrI.M.C No.1086 of 2023 2 3 SUBAIDA SHAFI AGED 47 YEARS, D/O NABEESA MANZIL HOUSE, KADUNGALLOOR, ALUVA, ERNAKULAM, PIN - 680 664. BY ADV SRI.G.SUDHEER,PUBLIC PROSECUTOR THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28.02.2023, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: CrI.M.C No.1086 of 2023 3 K. BABU, J ----- CrI.M.C No. 1086 of 2023 ----- Dated this the 28th day of February, 2023

ORDER

The prayer in this CrI.MC is to quash Annexure A2 Final Report and all further proceedings in C.C No.418/2021 on the file of the Judicial First Class Magistrate Court -II, Aluva, on the ground that the parties have arrived at a settlement in respect of the subject matter.

2. The petitioners are accused Nos.1 to 3.

3. The offences alleged against the petitioners are punishable under Sections 323, 324, 354-B, 354, 506(i) and 34 of the Indian Penal Code.

4. Respondent No.3, the defacto complainant entered appearance through counsel. An affidavit sworn to by her has also been placed before this Court.

5. Heard both sides.

6. I have perused the averments in the petition and the affidavit sworn to by respondent No.3. CrI.M.C No.1086 of 2023 4

7. The learned Public Prosecutor, on instructions, submitted

that the matter was enquired into through the Investigating Officer, who has taken statement of the defacto complainant and it is reported that the dispute between the parties has been amicably settled. The material placed before the Court shows that the entire dispute between the parties has been amicably settled and the

defacto complainant has decided not to proceed further. The settlement between the parties is found to be voluntary and fair. The settlement or the compromise satisfies the conscience of the Court. It is seen that the victim agreed to settle the matter with her free will.

8. In *Gian Singh v. State of Punjab* [2012 (4) KLT 108 (SC)],

Narinder Singh and others v. State of Punjab and Others [(2014) 6 SCC 466] and *State of Madhya Pradesh v. Lakshmi Narayan and Others* [(2019) 5 SCC 688] the Apex Court held that the High Court, invoking Section 482 of Cr.P.C., can quash criminal proceedings in relation to non-compoundable offences where the parties have settled the matter between themselves notwithstanding the bar under Section 320 of Cr.P.C., if it is warranted in the given facts and circumstances of the case, to ensure ends of justice or to prevent abuse of the process of any Court.

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9. In the instant case, the dispute is purely personal in nature.

There is nothing to show that public interest will be compromised by quashing the proceedings. The offences in question do not fall within the category of serious offences or heinous offences.

10. The offences in the present case do not fall within the

category of offences prohibited for granting permission to compromise in terms of the pronouncement of the Apex Court in Gian Singh (supra), Narinder Singh (supra) and Lakshmi Narayan (supra).

11. This Court is of the view that no purpose will be served in proceeding with the matter further. Resultantly, the Crl.M.C is allowed. Annexure A2 Final report and all further proceedings in C.C No.418/2021 in the file of the Judicial First Class Magistrate Court-II, Aluva, stand hereby quashed. Sd/- K. BABU JUDGE AMR Crl.M.C No.1086 of 2023 6 APPENDIX OF CRL.MC 1086/2023 PETITIONERS ANNEXURES Annexure A1 CERTIFIED COPY OF THE F.I.R. NO. 712/2021 DATED 11/08/2021 FILED BEFORE THE HON'BLE JUDICIAL FIRST CLASS MAGISTRATE COURT II, ALUVA NUMBERED AS C.C.NO.418/2021.

Annexure A2 COPY OF THE FINAL REPORT FILED BEFORE THE HON'BLE JUDICIAL FIRST CLASS MAGISTRATE COURT II, ALUVA IN C.C. 418/2021 DATED Annexure2 COPY OF THE FINAL REPORT FILED BEFORE THE HON'BLE JUDICIAL FIRST CLASS MAGISTRATE COURT II, ALUVA IN C.C. 418/2021 DATED Annexure A3 AFFIDAVIT EXECUTED BY THE 3RD RESPONDENT/ DEFACTO COMPLAINANT DATED 30/01/2023.

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