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Nibu vs State of Kerala

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Court : Kerala

Decided On : May-30-2023

Judge : Honourable Mr.Justice K. Babu

Appeal No. : Crl.MC/3319/2023

Appellant : NIBU

Respondent : State of Kerala

Judgement :

CRL.MC NO. 3319 OF 2023 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE K. BABU TUESDAY, THE 30TH DAY OF MAY 2023 / 9TH JYAISHTA, 1945 CRL.MC NO. 3319 OF 2023 AGAINST CC 348/2022 OF JUDL.M.F.C.-I,ERNAKULAM PETITIONER: NIBU, AGED 35 YEARS W/O.PRAKASH P.THOMAS, POTHENS HOUSE, PANAMPILLY NAGAR, ERNAKULAM, COCHIN, PIN - 682036 BY ADVS. BABU CHERUKARA ARUN BABU RESPONDENTS:

1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, COCHIN- 682031 2 THE SUB INSPECTOR OF POLICE VANITHA POLICE STATION, ERNAKULAM CITY, ERNAKULAM DISTRICT, PIN - 682018 3 SARAMMA THOMAS, AGED 81 YEARS W/O LATE THOMAS POTHEN, POTHENS HOUSE, SOUTH BRIDGE AVENUE, PANAMPILLY NAGAR, ERNAKULAM, ERNAKULAM DISTRICT, PIN - 682036 R1 & R2 BY SRI.SANGEETHA RAJ-PUBLIC PROSECUTOR R3 BY SRI.JEESMARTIN THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON

30.05.2023, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: CRL.MC NO. 3319 OF 2023 2

K.BABU, J.

---------- Crl.M.C.No.3319 of 2023 ---------- Dated this the 30th day of May, 2023

O R D E R

The prayer in this Crl.M.C. is to quash Annexure A1 Final Report in Crime No.66/2022 of Vanitha Police Station, Kochi and all further proceedings in C.C.No.348/2022 on the file of the Judicial First Class Magistrate Court I, Ernakulam on the ground that the parties have arrived at a settlement in respect of the subject matter.

2. The petitioner is the sole accused.

3. The offence alleged against the petitioner is punishable under Section 324 of IPC.

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

5. Heard both sides.

6. I have perused the averments in the petition and the affidavit sworn to by respondent No.3. CRL.MC NO. 3319 OF 2023 3

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 CRL.MC NO. 3319 OF 2023 4 ends of justice or to prevent abuse of the process of any Court.

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 offence in question does not fall within the category of serious offences or heinous offences.

10. The offence in the present case does 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 A1 Final Report in Crime No.66/2022 of Vanitha Police Station, Kochi and all further proceedings in C.C.No.348/2022 on the file of the Judicial First Class Magistrate Court I, Ernakulam stand hereby quashed. Sd/- K.BABU, JUDGE ab CRL.MC NO. 3319 OF 2023 5 APPENDIX OF CRL.MC 3319/2023 PETITIONER ANNEXURES Annexure A1 CERTIFIED COPY OF THE CHARGE SHEET IN C.C.NO.348/2022 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-I ERNAKULAM DATED 25-3-2022. Annexure A2 ORIGINAL AFFIDAVIT OF THE DEFACTO COMPLAINANT DATED 26-01-2023. RESPONDENTS ANNEXURES: NIL

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