

Noushad vs State of Kerala

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Court : Kerala

Decided On : May-31-2023

Judge : Honourable Mr.Justice K. Babu

Appeal No. : Crl.MC/3818/2023

Appellant : Noushad

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE K. BABU WEDNESDAY,
THE 31ST DAY OF MAY 2023 / 10TH JYAISHTA, 1945 CRL.MC NO.
3818 OF 2023 AGAINST THE ORDER/JUDGMENTCC 542/2021 OF
JUDICIAL MAGISTRATE OF FIRST CLASS ,CHITTUR CRIME NO.471
OF 2021 OF PUDUNAGARAM POLICE STATION, PALAKKAD
PETITIONER/S: 1 NOUSHAD AGED 32 YEARS S/O.ALI,
CHEMMANAMPARAMBIL, CHATHAMANGALAM, NEMMARA,
PALAKKAD, PIN - 678601 2 BADARUNEESA AGED 53 YEARS
W/O.ALI, CHEMMANAMPARAMBIL, CHATHAMANGALAM, NEMMARA,
PALAKKAD, PIN - 678601 3 AFSATH AGED 33 YEARS W/O.SAHEER,
PILATHURMEDU, PUDUNAGARAM, PALAKKAD, PIN - 678102 BY

ADV V.A.JOHNSON (VARIKKAPPALLIL) RESPONDENT/S: 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031 2 SAMSIYA AGED 23 YEARS D/O.SHAHUL HAMEED, NAGARMA, NADUVANHIRA, PUDUNAGARAM, PALAKKAD, PIN - 678102 R1 BY PUBLIC PROSECUTOR SRI SANGEETHA RAJ THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 31.05.2023, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: ..2..

K.BABU, J.

----- Dated this the
31st day of May, 2023

ORDER

The prayer in this Crl.M.C. is to quash Annexure-1 Final Report in Crime No. 471 of 2021 of Pudunagaram Police Station and all further proceedings in C.C.No.542 of 2021 on the file of the Judicial First Class Magistrate Court, Chittur, 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 offence alleged against the petitioners is punishable under Section 498-A r/w Section 34 of IPC .

4. Respondent No.2, the defacto complainant entered appearance through counsel. An affidavit sworn to by her has also been placed before this Court.

5. Heard Shri.V. A. Johnson, the learned counsel for the petitioners, Adv. Maria Goretti T.J., the learned counsel for respondent No.2 and the learned Public ..3.. Prosecutor.

6. I have perused the averments in the petition and the affidavit sworn to by respondent No.2.

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. Laxmi Narayan and Others* ..4.. [(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.

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 *Laxmi Narayan* (supra).

11. This Court is of the view that no purpose will be

..5.. served in proceeding with the matter further. Resultantly, the Crl.M.C is allowed. Annexure-1 Final Report in Crime No. 471 of 2021 of Pudunagaram Police Station and all further proceedings in C.C.No.542 of 2021 on the file of the Judicial First Class Magistrate Court, Chittur, stand hereby quashed. Sd/- K.BABU, JUDGE kkj ..6.. APPENDIX OF CRL.MC 3818/2023 PETITIONER ANNEXURES Annexure1 TRUE COPY OF THE FINAL REPORT IN C.C.NO.542/2021 OF THE COURT OF JUDICIAL FIRST CLASS MAGISTRATE, CHITTUR Annexure2 THE AFFIDAVIT SWORN BY THE 2ND RESPONDENT HEREIN EVIDENCING THE AFORESAID FACTUM OF SETTLEMENT

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