

Simi vs State of Kerala

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Court : Kerala

Decided On : Sep-30-2023

Judge : Honourable Mr. Justice Gopinath P.

Appeal No. : Crl.MC/4433/2023

Appellant : SIMI

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P.
SATURDAY, THE 30TH DAY OF SEPTEMBER 2023 / 8TH ASWINA,
1945 CRL.MC NO. 4433 OF 2023 AGAINST THE ORDER/JUDGMENT
CC 16/2022 OF JUDICIAL MAGISTRATE OF FIRST CLASS -I,KOCHI
PETITIONER/ACCUSED: SIMI, AGED 47 YEARS, D/O. FRANCIES
PALACKAL HOUSE, NEAR MANASSERY CHURCH, ERNAKULAM,
RAMESWARAM VILLAGE, THOPPUMPADY, PIN - 682005 BY ADVS.
BABU CHERUKARA P.A.NIZAR RESPONDENTS/CW2 AND CW3 IN
THE C.C.:

1 STATE OF KERALA REPRESENTED BY PUBLIC
PROSECUTOR,HIGH COURT OF KERALA, ERNAKULAM, COCHIN,
PIN - 682031 2 THE SUB INSPECTOR OF POLICE, VANITHA POLICE
STATION, ERNAKULAM CITY, ERNAKULAM DISTRICT, PIN - 682018
3 CHINNAMMA, AGED 70 YEARS, W/O FRANCIS, PALACKAL
HOUSE, MANASSERY, THOPPUMPADY, PIN - 682005 4 SINCY,
AGED 44 YEARS, W/O PRASAD, SREEKOVIL ANUVILLA,
ATHIPPOZHY, THOPPUMPADY, PIN - 682005 BY ADV PUBLIC
PROSECUTOR

SRI. VIPIN NARAYAN .PP SRI. JEES MARTIN, FOR RESPONDENT
NOS. 3 AND 4 THIS CRIMINAL MISC. CASE HAVING COME UP FOR
ADMISSION ON 30.09.2023, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING: CRL.MC NO. 4433 OF 2023 2

ORDER

Petitioner is the sole accused in C.C. No.16/2022 on the file of the Judicial First Class Magistrate Court-I, Kochi, alleging commission of offences under Sections 341, 324, and 294 of the Indian Penal Code.

2. Learned counsel appearing for the petitioner would

submit that the de facto complainant expired on 14.10.2016 and respondent Nos.3 and 4 are none other than the mother and sister of the de facto complainant. . It is also submitted that the entire issues between the petitioner and respondent Nos.3 and 4 (CW2 and CW3) have been settled. Learned counsel appearing for the petitioner also refers to Annexures A2 and A3 affidavits executed by CW2 and CW3 (respondent Nos.3 and 4) to establish that the entire issues between the petitioner and respondent Nos.3 and 4 have been settled and the respondents 3 and 4 do not intend to continue with the proceedings against the petitioner.

3. The learned Public Prosecutor and the learned counsel appearing for respondent Nos.3 and 4 would confirm that the entire issues between the petitioner and respondent CRL.MC NO. 4433 OF 2023 3 Nos.3 and 4 have been settled and the respondents 3 and 4 do not wish to continue with the prosecution in any manner.

4. Heard the learned counsel for the petitioner, the learned Public Prosecutor and the learned counsel for respondent Nos.3 and 4.

5. The principles governing the circumstances in which

this Court can exercise of jurisdiction under Section 482 of the Cr.P.C to quash criminal proceedings in respect of non- compoundable offences is delineated by the judgments of the Supreme Court in Gian Singh V. State of Punjab [(2012) 10 SCC 303] and State of Madhya Pradesh V. Laxmi Narayan and Others [(2019) 5 SCC 688]. It is clear from the reading of the aforesaid judgments that offences of heinous nature cannot be quashed on the ground of subsequent settlement. In this case, the nature of the offences does not compel me to hold that the proceedings cannot be quashed on the ground of settlement. No public interest will be served by continuing with the proceedings against the petitioner. Therefore, it is unlikely that the State will be able to successfully prosecute the case against the petitioner . In that view of the matter, I am of the view that this is fit case where the jurisdiction of this Court under Section 482 of Cr.P.C. can be invoked to quash the

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proceedings against the petitioner on the ground of settlement. No public interest will be served by continuing with the proceedings against the petitioner. The nature of the offences does not compel me to hold that the proceedings cannot be quashed on the ground of settlement. Accordingly, this Crl.M.C. is allowed and all further proceedings in C.C. No.16/2022 on the files the Judicial First Class Magistrate Court-I, Kochi

will stand quashed as against the petitioner.

Sd/- GOPINATH P. JUDGE ajt CRL.MC NO. 4433 OF 2023 5 APPENDIX OF CRL.MC 4433/2023 PETITIONER ANNEXURES Annexure A1 CERTIFIED COPY OF THE CHARGE SHEET IN C.C.NO. MAGISTRATE COURT-1 KOCHI DATED 31-10-2015 Annexure A2 ORIGINAL AFFIDAVIT OF THE CW2 DATED 27-04Annexure A3 ORIGINAL AFFIDAVIT OF THE CW3 DATED 27-04Annexure A4 COPY OF DEATH CERTIFICATE OF DEFACTO COMPLAINANT DATED 03-11-2016 HAVING REGISTRATION NO. DEATH/2016/9538

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