

Hamsa vs State of Kerala

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Court : Kerala

Decided On : Aug-01-2023

Judge : Honourable Mr.Justice K. Babu

Appeal No. : Crl.MC/5785/2023

Appellant : HAMSA

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE K. BABU TUESDAY, THE 1ST DAY OF AUGUST 2023 / 10TH SRAVANA, 1945 AGAINST THE ORDER/JUDGMENTCC 800/2016 OF JUDICIAL MAGISTRATE OF FIRST CLASS , MANNARKAD PETITIONER: HAMSA AGED 44 YEARS S/O. LATE MOHAMMED, KALAMPARAMBIL HOUSE, NATTUKAL, MANNARKADU TALUK, PALAKKAD DISTRICT, PIN - 678583 BY ADV P.JAYARAM RESPONDENTS: 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 2 NUJOOM AGED 33 YEARS D/O. ASAINAR, ERAKKingAL HOUSE, CHERUPLASSERY P.O., OTTAPALAM TALUK, PALAKKAD DISTRICT, PIN - 679503 BY ADV K.R.PAUL THIS CRIMINAL MISC. CASE

HAVING COME UP FOR ADMISSION ON 01.08.2023, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.BABU, J.

----- Crl.M.C.No.5785 of 2023
----- Dated this the 1st day of August, 2023

ORDER

The prayer in this Crl.M.C. is to quash Annexure A3 Final Report in Crime No.338/2016 of Nattukal Police Station, and all further proceedings in C.C. No.800/2016 on the file of the Judicial First Class Magistrate Court, Mannarkad 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 offences alleged against the petitioner are punishable under Sections 406 and 498-A of the Indian Penal Code.

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 both sides.

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* [(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 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 *Laxmi Narayan* (supra).

11. This Court is of the view that no purpose will be served in proceeding with the matter further. Resultantly, the CrI.M.C is allowed. Annexure A3 Final Report

in Crime No.338/2016 of Nattukal Police Station, and all further proceedings in C.C. No.800/2016 on the file of the Judicial First Class Magistrate Court, Mannarkad stand hereby quashed. Sd/- K.BABU, JUDGE
saap APPENDIX OF
CRL.MC 5785/2023 PETITIONER ANNEXURES Annexure A1 COPY OF THE
FIRST INFORMATION REPORT IN CRIME NO.338/2016 OF NATTUKAL
POLICE STATION Annexure A2 COPY OF THE COMPLAINT IN C.M.P. NO.
JUDICIAL FIRST CLASS MAGISTRATE, MANNARKAD Annexure A3 CERTIFIED
COPY OF THE FINAL REPORT FILED BY THE POLICE IN CRIME NO. 338/2016

OF NATTUKAL POLICE STATION/C.C.NO. 800/2016 OF THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE, MANNARKAD

Annexure A4 COPY OF THE MEMORANDUM OF EVIDENCE/ LIST OF WITNESSES IN CRIME NO. 338/2016 OF NATTUKAL POLICE STATION

Annexure A5 AFFIDAVIT DATED 21/12/2022 SWORN TO AND EXECUTED BY DEFACTO COMPLAINANT/2ND RESPONDENT Annexure A6 COPY OF THE DIVORCE AGREEMENT DATED PETITIONER AND THE 2ND RESPONDENT
//True copy//PA to Judge

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