

Subair vs State of Kerala

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Court : Kerala

Decided On : Feb-01-2023

Judge : Honourable Mr.Justice K. Babu

Appeal No. : Crl.MC/5922/2022

Appellant : Subair

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE K. BABU WEDNESDAY, THE 1ST DAY OF FEBRUARY 2023 / 12TH MAGHA, 1944 CRL.MC NO. 5922 OF 2022 C.C.NO.1799/2018 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-II AT ERNAKULAM, IN CRIME NO.957/2017 OF CENTRAL POLICE STATION, ERNAKULAM DISTRICT PETITIONERS/ACCUSED NO.1: SUBAIR, AGED 64 YEARS, S/O. MAHAMOOD (LATE), ZAINAS HOUSE, I.S PRESS ROAD, ERNAKULAM DISTRICT, PIN - 682018 BY ADV M.M.LAIJU NISSA RESPONDENTS/STATE, DEFACTO COMPLAINTANT: 1 STATE OF KERALA, REP BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682031 2 SHAHINA, AGED 50 YEARS, W/O SATAR, ZAINAS HOUSE, IS PRESS ROAD, ERNAKULAM 682018, PIN - 682018 BY ADV SMT.Sajitha SRI.G.SUDHEER, PP

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 01.02.2023, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.BABU, J.

----- Dated this the 1st day
of February, 2023

ORDER

The prayer in this Crl.M.C. is to quash Annexure A1 Final Report in C.C.No.1799/2018 and Annexure A2 FIR in Crime No.957/2017 of Central Police Station, Ernakulam, on the ground that the parties have arrived at a settlement in respect of the subject matter.

2. The petitioner is accused No.1.

3. The offences alleged against the petitioner are punishable under Sections 294(b), 354A (iv) and 506(1) of IPC.

4. Respondent No.2, 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.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. 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 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 *Lakshmi 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 A1 Final Report in C.C.No.1799/2018 and Annexure A2 FIR in Crime No.957/2017 of Central Police Station, Ernakulam, stand hereby quashed.

Sd/- K.BABU JUDGE VPK APPENDIX OF CRL.MC 5922/2022 PETITIONER ANNEXURES Annexure A1 FINAL REPORT CC NO.1799/2018 J.F.C.M ERNAKULAM Annexure A2 FINAL REPORT CC NO.1799/2018 JFMC ERNAKULAM FIR 957/2017 CENTRAL POLICE STATION Annexure A3 A TRUE COPY OF THE AFFIDAVIT FILED BY THE 2ND RESPONDENT DEFACTO COMPLAINANT