

Hamsa K 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/8867/2022

Appellant : Hamsa K

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. 8867 OF 2022 (AGAINST C.C NO.856/2021 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT, KALPETTA IN CRIME NO.522/2021 OF MEPPADI POLICE STATION) PETITIONERS/ACCUSED NOS.1 TO 3:

1 HAMSA K, AGED 61 YEARS, S/O KUNHIKOYA, KORADAN HOUSE, KUNNAMBATTA, NO. 11, KOTTAPADY AMSOM, WAYANAD DISTRICT., PIN - 673577 2 RAMLA, AGED 53 YEARS, W/O HAMSA, KORADAN HOUSE, KUNNAMBATTA, NO. 11, KOTTAPADY AMSOM, WAYANAD DISTRICT., PIN - 673577 3 SUVAINA, AGED 51 YEARS,

D/O MUNEER CHAKKUNGAL HOUSE, PERUMTHATTA, CHUNDALE,
KALPETTA AMSOM, WAYANAD DISTRICT., PIN - 673123 BY ADVS.
CELINE JOSEPH BENNY P.S

RESPONDENTS/STATE & DEFACTO COMPLAINANT: 1 STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN -
682031 2 ARSHIDA FARVIN, AGED 23 YEARS, W/O. SUHAIL, KOLLATHU
PARAMBIL HOUSE, AMBALAKUNNU, VENGAPALLY VILLAGE, VYTHIRI
TALUK, PAZHAMUDI POST, WAYANAD DISTRICT., PIN - 673122 BY ADV
SMT.M.R.JAYALATHA SMT.M.K.PUSHPALATHA, PUBLIC PROSECUTOR 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 CrI.M.C. is to quash Annexure II Final Report in Crime
No.522/2021 of Meppadi Police Station and all further proceedings in C.C
No.856/2021 on the file of the Judicial First Class Magistrate Court, Kalpetta 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 offences alleged against the petitioners are punishable under Sections 341,
323, 324, 498-A read with 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 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 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 *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 II Final report in Crime No.522/2021 of Meppadi Police Station and all further proceedings in C.C.No.856/2021 on the file of the Judicial First Class Magistrate Court, Kalpetta stand hereby quashed. Sd/- K.BABU, JUDGE KAS APPENDIX OF CRL.MC 8867/2022 PETITIONER ANNEXURES Annexure- I CERTIFIED COPY OF THE FIR IN CRIME NO.522/2021 DATED 19.09.2021 OF THE MEPPADI POLICE STATION. Annexure- II CERTIFIED COPY OF THE CHARGE SHEET DATED 25.10.2021 OF THE MEPPADI POLICE STATION. Annexure- III TRUE COPY OF THE MEMORANDUM OF EVIDENCE IN CRIME NO.522/2021 OF THE MEPPADI POLICE STATION Annexure- IV ORIGINAL OF THE AFFIDAVIT DATED 19.09.2022 AFFIRMED BY THE RESPONDENT NO 2.

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