

Sidhique vs State of Kerala

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Court : Kerala

Decided On : Jan-04-2023

Judge : Honourable Mr.Justice Ziyad Rahman a.a.

Appeal No. : Crl.MC/8981/2022

Appellant : Sidhique

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
WEDNESDAY, THE 4TH DAY OF JANUARY 2023 / 14TH POUSHA, 1944 LP
6/2022 OF JUDICIAL MAGISTRATE OF FIRST CLASS, PAYYOLI CRIME
NO.697/2020 OF PAYYOLI POLICE STATION, KOZHIKODE
PETITIONERS/ACCUSED A2: SIDHIQUE AGED 51 YEARS S/O UMMER,
KARUNYA HOUSE, (PO) THIKKODI, KOZHIKODE DISTRICT , PIN - 673529 BY
ADVS. C.BHASKARAN ARJUN C BHASKAR RESPONDENTS/STATE/DEFACTO
COMPLAINANT:

1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN - 682031 2 SIBIN ASWANTH AGED 22

YEARS S/O SUBRAMANNYAN, KANNANCHERI HOUSE, POST-THIHKODI, KOZHIKODE DISTRICT, PIN - 673529 3 JERIL AGED 21 YEARS S/O BABU, KOZHIMADHAM KUNI HOUSE, POST-THIHKODI, KOZHIKODE DISTRICT, PIN - 673529 BY ADVS. ADV NABIL KHADER ADV GOKUL DEVIS ADV SREEJA V - SR PP

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 04.01.2023, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

The petitioner is the 2nd accused in Crime No.697/2020 of

Payyoli Police Station which is now pending before the Judicial First Class Magistrate Court Payyoli as L.P. No.6/2022. The crime was registered against three accused persons for the offences punishable under Sections 341, 323 and 308 read with Section 34 of Indian Penal Code. The 2nd and 3rd respondents are the victims of

the crime. Annexure A1 is the First Information Report and Annexure A2 is the final report submitted by the Police.

2. The prosecution against the accused Nos.1 and 3 is

already quashed by this Court as per order dated 02.11.2022 in CrI.M.C. No.7086/2022. This CrI.M.C. is filed for quashing the proceedings against the petitioner/2nd accused.

3. Heard Sri.C. Bhaskaran, learned counsel appearing for the petitioner, Smt.Sreeja V., learned Public Prosecutor for the State and Sri.Nabil Khader, learned counsel appearing for the respondents 2 and 3.

4. The prayer for quashing the above proceedings is sought

for by the petitioner on the ground that, the dispute between the parties has been settled and to substantiate the same, the respondents 2 and 3 have sworn Annexure A3 and Annexure A4 affidavits respectively. The aforesaid affidavits

indicate that, the matter has been settled and the respondents 2 and 3 have no subsisting grievance against the petitioner herein. They also conveyed that they have no objection in quashing the proceedings against the petitioner herein. The learned counsel for the respondents 2 and 3 also confirmed the same. The learned Public Prosecutor upon instructions submitted that the veracity of the settlement was verified by the Station House officer concerned and before the SHO also, the respondents 2 and 3 have reiterated that, they do not have any objection in quashing the proceedings as they have no subsisting grievance against the petitioner herein.

5. Going through the materials available on record, it is

discernible that, the dispute is basically private in nature and on account of settlement arrived at between the parties, no purpose would be served if the proceedings against the petitioner herein were allowed to continue. In such circumstances, the chances of a successful prosecution are very bleak. Therefore, I am of the view that going by the decision in *Gian Singh v. State of Punjab and Another* [2012(4) KLT 108], this is a fit case in which the powers of this Court under Section 482 of the Code of Criminal Procedure can be invoked.

Accordingly, this Crl.M.C. is allowed. Annexure A2 final report in Crime No. No.697/2020 of Payyoli Police Station and all further proceedings in L.P.No.6/2022 pending before the Judicial First Class Magistrate Court Payyoli as against the petitioner are hereby quashed.

Sd/- ZIYAD RAHMAN A.A. JUDGE scs APPENDIX OF CRL.MC 8981/2022 PETITIONER ANNEXURES Annexure A1 TRUE COPY OF FIR 697/2020 OF PAYYOLI POLICE STATION DATED 17/12/2020 Annexure A2 CERTIFIED COPY OF THE FINAL REPORT/CHARGE SHEET IN S.C. NO. ASST. SESSIONS COURT, KOYILANDY DATED Annexure A2(a) CERTIFIED COPY OF THE MEMORANDUM OF EVIDENCE / WITNESS LIST IN S.C. NO. ASST. SESSIONS COURT, KOYILANDY DATED Annexure A3 AFFIDAVIT SWORN BY THE 2ND RESPONDENT DATED 03/10/2022 Annexure A4 AFFIDAVIT SWORN BY THE 3RD RESPONDENT DATED 03/10/2022