

Sijoy, vs the State of Kerala,

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Court : Kerala

Decided On : Feb-01-2022

Judge : Honourable Dr. Justice Kauser Edappagath

Appeal No. : Crl.MC/33/2022

Appellant : SIJOY,

Respondent : The State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH
TUESDAY, THE 1ST DAY OF FEBRUARY 2022 / 12TH MAGHA, 1943 CRL.MC
NO. 33 OF 2022 CRIME NO.136/2019 OF North Parur Police Station, Ernakulam
AGAINST THE ORDER/JUDGMENT IN CC 500/2020 OF JUDICIAL
MAGISTRATE OF FIRST CLASS , NORTH PARAVUR
PETITIONERS/ACCUSED: 1 SIJOY, AGED 31 YEARS S/O.JOSE,
VAYALIKODATH HOUSE, PERUMPADANNA, 2 JOSE, AGED 66 YEARS
S/O.VARGHESE, VAYALIKODATH HOUSE, PERUMPADANNA, 3 MERCY
JOSE, AGED 62 YEARS W/O.JOSE, VAYALIKODATH HOUSE,
PERUMPADANNA, BY ADVS. SHINOJ.K.N C.K.RAPHEEQUE
K.B.NIDHINKUMAR RESPONDENTS/STATE & DEFACTO COMPLAINANT: 1

THE STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM-682 031. -:2:- 2 LORENE, AGED 26 YEARS D/O.STANLEY, PULIKKAL HOUSE, PALLIPURAM VILLAGE, NEAR CONVENT ROAD, PALLIPURAM, ERNAKULAM DISTRICT, PIN-683 515. BY ADV SHAHUL HAMEED MOOPPANR R2 SMT. T.V. NEEMA, SR. PP THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 01.02.2022, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: -:3:-

ORDER

Dated this the 1st day of February, 2022 This CrI.M.C. has been preferred to quash Annexure A2 Final Report in Crime No.136/2019 of North Paravur Police Station, Ernakulam on the ground of settlement between the parties.

2. The petitioners are the accused Nos. 1 to 3. The 2 nd respondent is the defacto complainant

3. The offences alleged against the petitioners are under Sections 498A and 34 of IPC.

4. The respondent No.2 entered appearance through counsel. An affidavit sworn in by her is also produced.

5. I have heard Sri. Shinoj K. Narayanan, the learned counsel for the petitioners, Sri. Shahul Hameed Mooppen, the learned counsel for the respondent No.2 and Smt. T.V. Neema the learned Senior Public Prosecutor.

6. The averments in the petition as well as the affidavit sworn in by the respondent No.2 would show that the entire -:4:-

dispute between the parties has been amicably settled and the de facto complainant has decided not to proceed with the crime further. The learned Prosecutor, on instruction, submits that the matter was enquired into through the investigating officer and a statement of the de facto complainant was also recorded wherein she reported that the matter was amicably settled.

7. The Apex Court 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 in State of Madhya Pradesh v. Laxmi Narayan and Others [(2019) 5 SCC 688] has held that the High Court invoking S.482 of Cr.P.C can quash criminal proceedings in relation to non compoundable offence where the parties have settled the matter between themselves notwithstanding the bar under S.320 of Cr.P.C. if it is warranted in the given facts and circumstances of the case or to ensure ends of justice or to prevent abuse of process of any Court.

8. The dispute in the above case is purely personal in nature. No public interest or harmony will be adversely affected -:5:-

by quashing the proceedings pursuant to Annexure A2. The offences in question do not fall within the category of offences prohibited for compounding in terms of the pronouncement of the Apex Court in Gian Singh (supra), Narinder Singh (supra) and Laxmi Narayan (supra). For the reasons stated above, I am of the view that no purpose will be served in proceeding with the matter further. Accordingly, the Crl.M.C. is allowed. Annexure A2 Final Report in Crime No.136/2019 of North Paravur Police Station, Ernakulam stands hereby quashed.

Sd/- DR. KAUSER EDAPPAGATH JUDGE kp True copy P.A. To Judge -:6:-
APPENDIX OF CRL.MC 33/2022 PETITIONER ANNEXURES Annexure A1 TRUE COPY OF FIRST INFORMATION REPORT DATED 05.02.2019 IN CRIME NO.136/2019 OF N.PARAVUR POLICE STATION, ERNAKULAM DISTRICT. Annexure A2 TRUE COPY OF FINAL REPORT DATED 17.06.2019 IN CRIME NO.136/2019 OF N.PARAVUR POLICE STATION, ERNAKULAM DISTRICT. Annexure A3 AFFIDAVIT SWORN BY THE 2ND RESPONDENT.

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