

Ashok Kumar vs State of Kerala

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Court : Kerala

Decided On : Feb-03-2022

Judge : Honourable Dr. Justice Kauser Edappagath

Appeal No. : Crl.MC/70/2022

Appellant : Ashok Kumar

Respondent : State of Kerala

Judgement :

CRL.MC NO. 70 OF 2022 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH
THURSDAY, THE 3RD DAY OF FEBRUARY 2022 / 14TH MAGHA,
1943 CRL.MC NO. 70 OF 2022 CRIME NO.296/2012 OF Kottiyam
Police Station, Kollam IN CC 871/2013 OF JUDICIAL MAGISTRATE OF
FIRST CLASS -II, KOLLAM PETITIONER/ACCUSED: ASHOK KUMAR,
AGED 57 YEARS S/O. GOPALAN, MELEVILAVEEDU, THAZHUTHALA
CHERI, KOTTIYAM PO, THAZHUTHALA VILLAGE, KOLLAM
DISTRICT, PIN-691571. BY ADVS. BINU GEORGE HEMALATHA
RESPONDENTS/STATE: 1 STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM,

PIN-682031. 2 SUJAKUMARI, AGED 45 YEARS D/O. DEVAKI, MUKALUVILA VEEDU, NEAR CHIRAKKARODU TEMPLE, NEDUMPANA CHERI, NEDUMPANA VILLAGE, KOLLAM DISTRICT, PIN-691576. R1 BY M.P.PRASANTH - PUBLIC PROSECUTOR R2 BY ADV N.SASANKAN PILLAI THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 03.02.2022, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: CRL.MC NO. 70 OF 2022 2

ORDER

This CrI.M.C. has been preferred to quash Annexure A2 Final Report in Crime No.296/2012 of Kottiyam Police Station and all further proceedings in C.C.No.871/2013 on the file of the Judicial First Class Magistrate Court II, Kollam on the ground of settlement between the parties.

2. The petitioner is the accused. The 2nd respondent is the de facto complainant.
3. The offences alleged against the petitioner are under Section 498A of IPC and Section 3 of Dowry Prohibition Act.
4. The respondent No.2 entered appearance through counsel. An affidavit sworn in by her is also produced.
5. I have heard Sri.Binu George, the learned counsel for the petitioner, Sri.N.Sasankan Pillai, the learned counsel for the respondent No.2 and Sri.M.P.Prasanth, the learned Public Prosecutor. CRL.MC NO. 70 OF 2022 3
6. The averments in the petition as well as the affidavit

sworn in by the respondent No.2 would show that the entire 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 CRL.MC NO. 70 OF 2022 4 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 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.296/2012 of Kottiyam Police Station and all further proceedings in C.C.No.871/2013 on the file of the Judicial First Class Magistrate Court II, Kollam stands hereby quashed.

Sd/- DR. KAUSER EDAPPAGATH JUDGE ab CRL.MC NO. 70 OF 2022 5
APPENDIX OF CRL.MC 70/2022 PETITIONER ANNEXURES Annexure A1
CERTIFIED COPY OF THE FIR IN CRIME NO.296/2012 OF KOTTIYAM POLICE
STATION. Annexure A2 CERTIFIED COPY OF THE FINAL REPORT IN CRIME
NO.296/2012 OF KOTTIYAM POLICE STATION. Annexure A3 AFFIDAVIT
DATED 30.12.2021 SWORN BY THE 2ND RESPONDENT. RESPONDENTS
ANNEXURES: NIL