

Shine vs State of Kerala

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Court : Kerala

Decided On : Apr-12-2022

Judge : Honourable Mr.Justice Mohammed Nias C.P.

Appeal No. : Crl.MC/157/2022

Appellant : SHINE

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.
TUESDAY, THE 12TH DAY OF APRIL 2022 / 22ND CHAITHRA, 1944
AGAINST THE ORDER/JUDGMENT IN CC 1496/2020 OF JUDICIAL
MAGISTRATE OF FIRST CLASS -II, KOLLAM
PETITIONERS/ACCUSED NO.1 TO 3: 1 SHINE, AGED 32 YEARS, S/O.
RAJU, KRISHNAPURI VEEDU, THAZATHCHERI, MAYYANAD, 2
ADARSH, AGED 26 YEARS, S/O. SUNDARESHAN, S.S.BHAVAN,
VENPALAKARA, MAYYANAD, KOLLAM-691020. 3 GOPU, AGED 27
YEARS S/O. LAKSHMANAN, MANI MANDIRAM, SATHAMKOVIL,
MAYYANAD, BY ADVS. M.KIRANLAL MANU RAMACHANDRAN
R.RAJESH (VARKALA) T.S.SARATH SAMEER M NAIR GEETHU

KRISHNAN HARSHA SUSAN SAM RESPONDENT/STATE & DE-FACTO COMPLAINANT: 1 STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM-682031. 2 THE STATION HOUSE OFFICER, POLICE STATION OF ERAVIPURAM, KOLLAM DISTRICT-691011. 3 SHAIJU AGED 52 YEARS S/O.SOMAN, APSARA HOUSE NO.108, VENPALAKARA, VALATHUNGAL, KOLLAM-691303. BY ADV ANSU VARGHESE SRI. PRASANTH. M.P, PP. THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12.04.2022, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

The petitioners are the accused No.1 to 3 in Crime and the offences alleged against the petitioners are under Sections 457,461,380 r/w 34 of the Indian Penal Code. 2.The allegation is that the petitioners/accused No.1 to 3, with an intention to commit theft, broke the roof tile and entered into the dining hall of house No.108, Apsara, Valathugal, Eravipuram, Kollam and committed theft of mixer grinder, cooking gas, LED TV.

3. Heard the learned counsel for the petitioners, the learned Public Prosecutor as well as the learned counsel for 3rd respondent.

4. It is submitted by respective counsel that the

petitioners and 3rd respondent have arrived at an amicable settlement and Annexure A3 is the affidavit filed. The affidavit, inter alia, state that all disputes are settled and that the pendency of criminal proceeding would cause hardship to all the parties.

5. From the submission across the Bar and perusing

the criminal M.C. and the affidavit referred above, I am satisfied that there has been an amicable settlement and that there is no vitiating circumstances in the respondents filing the affidavit. No purpose will be served by continuing the proceedings in the above circumstances. It is submitted by the learned Public

Prosecutor that the statement of the de facto complainant has also be taken to verify the genuineness of the settlement.

6. In view of the judgment of the Hon'ble Supreme Court in Gian Singh v. State of Punjab and another [2012

(10) SCC 303] and considering the facts and circumstances

of the case and in exercise of power of this Court under Section 482 of the Code of Criminal Procedure, I hereby quash Annexure A1 FIR and all further proceedings in Crime against these petitioners. The CrI.MC is allowed as above. Sd/- MOHAMMED NIAS C.P. JUDGE msp APPENDIX OF CRL.MC 157/2022 PETITIONER ANNEXURES Annexure A1 THE CERTIFIED COPY OF THE FIR IN CRIME NO.1762/2020 OF POLICE STATION OF ERAVIPURAM, KOLLAM DISTRICT. Annexure A2 THE CERTIFIED COPY OF THE FINAL REPORT IN

CRIME NO.1762/2020 OF POLICE STATION OF ERAVIPURAM WHICH IS NOW PENDING AS C.C.NO.1496/2020 ON THE FILES OF JFMC II KOLLAM. Annexure A3 THE ORIGINAL OF THE AFFIDAVIT DATED 26.12.2021 SWORN BY THE 3RD RESPONDENT/DE- FACTO COMPLAINANT.

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