

Kahar vs State of Kerala

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Court : Kerala

Decided On : Feb-21-2022

Judge : Honourable Dr. Justice Kauser Edappagath

Appeal No. : Crl.MC/175/2022

Appellant : KAHAR

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH
MONDAY, THE 21ST DAY OF FEBRUARY 2022 / 2ND PHALGUNA,
1943 CRL.MC NO. 175 OF 2022 CRIME NO.506/2021 OF Sooranadu
Police Station, Kollam IN CC 329/2021 OF JUDICIAL MAGISTRATE OF
FIRST CLASS, SASTHAMCOTTA (TEMPORARY)
PETITIONER/ACCUSED: KAHAR, AGED 38 YEARS, S/O
YUNUSKUNJU, PUTHENPURA VADAKKATHIL HOUSE,
KAMBALADIMURIYIL, PORUVAZHY P O, KOLLAM-690520. BY ADV
RAJEE P MATHEWS RESPONDENTS/STATE/COMPLAINANT: 1
STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682031. 2 FATHIMA, AGED

19 YEARS D/O SHYMI, PUTHENPURA VADAKKATHIL HOUSE, KAMBALADIMURIYIL, PORUVAZHY P O, KOLLAM-690520. BY ADV VIJAY SANKAR V.H.R2 SMT. T.V. NEEMA, SR. PP R1 THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 21.02.2022, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: -:2:-

ORDER

Dated this the 21st day of February, 2022 This CrI.M.C. has been preferred to quash Annexure II Final Report in Crime No.506/2021 of Sooranadu Police Station now pending as C.C.No.329/2021 on the files of the Judicial First Class Magistrate Court (Temporary), Sasthamcotta on the ground of settlement between the parties.

2. The petitioner is the accused. The 2nd respondent is the defacto complainant.
3. The offences alleged against the petitioner are under Sections 294(b), 451, 323 and 354 of IPC.
4. The respondent No.2 entered appearance through counsel. An affidavit sworn in by her is also produced.
5. I have heard Adv. Rajee P. Mathew, the learned counsel for the petitioner, Sri. Vijay Sankar V.H, 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 -:3:-

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 ends of justice or to prevent abuse of process of any Court.

8. The dispute in the above case is purely personal in -:4:- nature. No public interest or harmony will be adversely affected

by quashing the proceedings pursuant to Annexure II. 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 II Final Report in Crime No.506/2021 of Sooranadu Police Station now pending as C.C.No.329/2021 on the files of the Judicial First Class Magistrate Court (Temporary), Sasthamcotta stands hereby quashed.

Sd/- DR. KAUSER EDAPPAGATH JUDGE kp True copy P.A. To Judge -:5:-
APPENDIX OF CRL.MC 175/2022 PETITIONER ANNEXURES Annexure I
CERTIFIED COPY OF THE FIR IN CRIME NO.506/2021 OF SOORANADU
POLICE STATION, KOLLAM DISTRICT. Annexure II CERTIFIED COPY OF THE
FINAL REPORT IN CRIME NO.506/2021 OF SOORANADU POLICE STATION,
KOLLAM DISTRICT. Annexure III THE AFFIDAVIT SWORN BY THE 2ND
RESPONDENT.

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