

Noushad.K., vs State of Kerala

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Court : Kerala

Decided On : Feb-23-2022

Judge : Honourable Dr. Justice Kauser Edappagath

Appeal No. : Crl.MC/210/2022

Appellant : Noushad.K.,

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH
WEDNESDAY, THE 23RD DAY OF FEBRUARY 2022 / 4TH PHALGUNA, 1943
CRL.MC NO. 210 OF 2022 CRIME NO.990/2021 OF Thrikkakara Police Station,
Ernakulam IN CC 811/2015 OF JMFC, KAKKANAD PETITIONERS/ACCUSED
1,3,4 & 5:

1 NOUSHAD.K.,AGED 54 YEARS S/O. LATE A.H. KOYA,
NEDUMKULANGARA MALAYIL HOUSE, ATHANI, KUSUMAGIRI P.O.,
KAKKANAD 682 030. 2 NAZEEMA, AGED 49 YEARS W/O. KOYA,
NEDUMKULANGARAMALAYIL, ATHANI , KAKKANAD. 3 KOYA, AGED
54 YEARS S/O. ATTAKOYA, NEDUMKULANGARAMALAYIL, ATHANI,

KAKKANAD. 4 SHERIF,AGED 51 YEARS S/O. ABDUL RAHMAN,
THURUTHEL HOUSE, KUZHIKATTUMoola, KAKKANAD. BY ADV
S.A.SHERLY

RESPONDENTS/STATE & DEFACTO COMPLAINANT: 1 STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM .682031 -:2:- 2 RAMLATH, AGED 49 YEARS ANSAL MANZIL,
CHITTETHUKARA , KAKKANAD, 682 037. BY ADV DIJI.K.DASAN R2 SRI. M.P.
PRASANTH, PP THIS CRIMINAL MISC. CASE HAVING COME UP FOR
ADMISSION ON 23.02.2022, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING: -:3:-

ORDER

Dated this the 23rd day of February, 2022 This Crl.M.C. has been preferred to
quash Annexure A2 Charge in Crime No.990/2011 of Thrikkakara Police Station
and further proceedings in C.C.No.811/2015 on the files of the Judicial First Class
Magistrate Court, Kakkanad as against the petitioners herein, who are accused
Nos. 1, 3, 4 and 5 on the ground of settlement between the parties.

2. The petitioners are the accused Nos. 1, 3, 4 and 5. The 2nd respondent is the
defacto complainant.

3. The offences alleged against the petitioners are under Sections 498A, 506, 420,
324, and 496 of IPC.

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

5. I have heard Smt. Sherly S.A., the learned counsel for the petitioners, Sri. Digi
K. Dasan, the learned counsel for the respondent No.2 and Sri. M.P. Prasanth, the
learned Public Prosecutor. It is submitted by the learned counsel for the petitioner
that the 2nd accused passed away on 18/2/2021. -:4:-

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

-:5:-

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 Charge in Crime No.990/2011 of Thrikkakara Police Station and further proceedings in C.C.No.811/2015 on the files of the Judicial First Class Magistrate Court, Kakkanad as against the petitioners herein, who are accused Nos. 1, 3, 4 and 5 stands hereby quashed.

Sd/- DR. KAUSER EDAPPAGATH JUDGE kp True copy P.A. To Judge -:6:-
APPENDIX OF CRL.MC 210/2022 PETITIONER ANNEXURES Annexure A1

ORIGINAL FIR IN CRIME NO. 990/2021 FOR TRIKKAKARA POLICE STATION IN CC Annexure A2 ORIGINAL CHARGE IN CC 811/2015, JUDICIAL FIRST CLASS MAGISTRATE COURT KAKKANAD. Annexure A3 ORIGINAL AFFIDAVIT SIGNED BY 2ND RESPONDENT DEFACTO COMPLAINT AGREEING TO QUASH THE PROCEEDINGS IN CC 811/2015.

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