

Shamnad K.S. vs State of Kerala

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Court : Kerala

Decided On : Mar-09-2022

Judge : Honourable Dr. Justice Kauser Edappagath

Appeal No. : Crl.MC/280/2022

Appellant : Shamnad K.S.

Respondent : State of Kerala

Judgement :

CRL.MC NO. 280 OF 2022 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH
WEDNESDAY, THE 9TH DAY OF MARCH 2022 / 18TH PHALGUNA,
1943 CRL.MC NO. 280 OF 2022 IN CC 112/2021 OF JUDICIAL
MAGISTRATE OF FIRST CLASS -II, ERNAKULAM
PETITIONERS/ACCUSED NOS.1 AND 2: 1 SHAMNAD K.S., AGED 32
YEARS S/O SHERIF, KUNNEL HOUSE, THAIKKAL P O, ARTHUNKAL,
ALAPPUZHA-688530. 2 NASEEMA, AGED 54 YEARS D/O ALI,
KUNNEL HOUSE, THAIKKAL P O, ARTHUNKAL, ALAPPUZHA-688530.
BY ADVS. JOSE ANTONY S.SHIV SHANKAR RESPONDENTS:

1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM. PIN-682031. 2 FASILA, AGED 41 YEARS W/O NOUSHAD, KANNAMTHIRA, NIKARTHIL VEEDU, AROOKUTTY PANCHAYATH, WARD-13, AROOKUTTY VILLAGE, CHERTHALA, ALAPPUZHA-688535. 3 MAJANA PARWIN, AGED 21 YEARS D/O NOUSHAD, KANNAMTHIRA, NIKARTHIL VEEDU, AROOKUTTY PANCHAYATH, WARD-13, AROOKUTTY VILLAGE, CHERTHALA, ALAPPUZHA-688535. BY ADV C.P.ANIL RAJ SRI M P PRASANTH-PP THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON

09.03.2022, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: CRL.MC NO. 280 OF 2022 2

ORDER

This Crl.M.C. has been preferred to quash Annexure A2 Final Report in C.C.No.112/2021 on the file of the Judicial First Class Magistrate Court II, Ernakulam on the ground of settlement between the parties.

2. The petitioners are the accused Nos.1 and 2. The 2nd respondent is the de facto complainant and the 3rd respondent is the injured.

3. The offences alleged against the petitioners are under Sections 341, 323, 294(b), 506 and 354 r/w 34 of IPC.

4. The respondent Nos.2 and 3 entered appearance through counsel. The affidavits sworn in by them are also produced.

5. I have heard Sri.Jose Antony, the learned counsel for the petitioners, Sri.C.P.Anil Raj, the learned counsel for the respondent Nos.2 and 3 and Sri.M.P.Prasanth, the learned Public Prosecutor.

6. The averments in the petition as well as the affidavit

CRL.MC NO. 280 OF 2022 3 sworn in by the respondent Nos.2 and 3 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 CRL.MC NO. 280 OF 2022 4 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 Final Report. 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 CrI.M.C. is allowed. Annexure A2 Final Report in C.C.No.112/2021 on the file of the Judicial First Class Magistrate Court II, Ernakulam stands hereby quashed. Sd/- DR. KAUSER EDAPPAGATH JUDGE ab CRL.MC NO. 280 OF 2022 5 APPENDIX OF CRL.MC 280/2022 PETITIONER ANNEXURES Annexure A1 CERTIFIED COPY OF THE FIR IN CRIME NO.179/2020 CENTRAL POLICE STATION, ERNAKULAM. Annexure A2 CERTIFIED COPY OF THE FINAL REPORT IN CC NO.112/2021 ON THE FILES JUDICIAL MAGISTRATE COURT-

II, ERNAKULAM. Annexure A3 THE AFFIDAVIT SWORN TO BY THE 2ND RESPONDENT DATED 21.12.2021. Annexure A4 THE AFFIDAVIT SWORN TO BY THE 3RD RESPONDENT DATED 21.12.2021. RESPONDENTS ANNEXURES : NIL

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