

Pradeep vs State of Kerala

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Court : Kerala

Decided On : Jun-13-2022

Judge : Honourable Mr.Justice Ziyad Rahman a.a.

Appeal No. : Crl.MC/437/2022

Appellant : Pradeep

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
MONDAY, THE 13TH DAY OF JUNE 2022 / 23RD JYAISHTA, 1944
CRL.MC NO. 437 OF 2022 PETITIONER/ACCUSED: PRADEEP, AGED
39 YEARS S/O. KRISHNANKUTTY, KUZHUPILLY HOUSE,
NAYARANGADI DESOM, KODASSERY VILLAGE, IRINJALAKUDA,
THRISSUR- 685509. BY ADVS. P.K.VARGHESE P.S.ANISHAD
K.R.ARUN KRISHNAN SANJANA RACHEL JOSE
RESPONDENT/STATE/DEFACTO COMPLAINANT: 1 STATE OF
KERALA REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH
COURT OF KERALA, ERNAKULAM-682031. 2 KOMALAM, AGED 72
YEARS, W/O. MOHANAN, NANDANAM HOUSE, KORUMBISERY

DESOM, IRINJALAKUDA P.O., IRINJALAKUDA, THRISSUR DISTRICT-680121. BY ADV REGHU SREEDHARAN ADV.C,S,HRITHIK-SR,PP THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 13.06.2022, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

The petitioner is the accused in Crime No.1367/2020 of Irinjalakuda Police Station which was registered for the offences punishable under Sections 403, 405 and 420 of Indian Penal Code. The aforesaid crime was registered on the basis of the information submitted by the 2nd respondent.

2. The case against the petitioner is that, he has collected an amount of Rs. 21,86,250/- from the 2nd respondent by showing that the property having an extent of 7 cents is belonging to him and he would build a house in the said property for the 2 nd respondent/defacto complainant and convey the same. Later, he did not comply the aforesaid proposal and the amount was also not repaid. Annexure-1 is the FIR submitted in such circumstances. This CrI. M.C is filed for quashing all further proceedings pursuant to the Annexure-1.

3. Heard Sri. P.K Varghese, the learned counsel appearing for

the petitioner, Sri. M.P Prasanth, the learned Public Prosecutor appearing for the State and Sri. Reghu Sreedharan, the learned counsel appearing for the 2nd respondent.

4. The prayer for quashing the above proceedings is sought

for by the petitioner on the ground that, the dispute between the parties has been settled and to substantiate the same, the defacto complainant/2nd respondent has sworn Annexure-II affidavit. The aforesaid affidavit indicates that, the matter has been settled and the 2nd respondent has no subsisting grievance against the petitioner herein. He has also conveyed that he has no objection in quashing the proceedings against the petitioner herein. The learned counsel for the 2nd respondent/defacto complainant also confirmed the same. The learned Public

Prosecutor upon instructions submitted that the veracity of the settlement was verified by the Station House officer concerned and before the SHO also, the 2nd respondent has reiterated that, he does not have any objection in quashing the proceedings as he has no subsisting grievance against the petitioner herein.

5. Going through the materials available on record, it is

discernible that, the dispute is basically private in nature and on account of settlement arrived at between the parties, no purpose would be served if the proceedings against the petitioner herein were allowed to continue. In such circumstances, the chances of a successful prosecution are very bleak. Therefore, I am of the view that going by the decision in *Gian Singh v. State of Punjab and Another* [2012(4) KLT 108], this is a fit case in which the powers of this Court under Section 482 of the Code of Criminal Procedure can be invoked. Accordingly, this Crl.M.C. is allowed. All further proceedings pursuant to Annexure-I, FIR in Crime No.1367/2020 of Irinjalakuda Police Station as against the petitioner are hereby quashed. Sd/- ZIYAD RAHMAN A.A JUDGE rpk APPENDIX OF CRL.MC 437/2022 PETITIONER ANNEXURES Annexure I A TRUE COPY OF THE CERTIFIED COPY OF THE FIR IN CRIME NO.1367/2020 OF IRINJALAKUDA POLICE STATION, THRISSUR DISTRICT. Annexure II A TRUE COPY OF THE AFFIDAVIT DATED 17.12.2021 SIGNED BY THE 2ND RESPONDENT.

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