

Muthalib vs State of Kerala

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Court : Kerala

Decided On : Nov-03-2022

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

Appeal No. : Crl.MC/449/2022

Appellant : Muthalib

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
THURSDAY, THE 3RD DAY OF NOVEMBER 2022 / 12TH KARTHIKA,
1944 AGAINST THE ORDER/JUDGMENTCC 629/2021 OF JUDICIAL
MAGISTRATE OF FIRST CLASS ,TALIPARAMBA, IN CRIME
NO.130/2021 OF KUDIYANMALA POLICE STATION, KANNUR
DISTRICT PETITIONER/ACCUSED: MUTHALIB AGED 43 YEARS S/O.
ALI, PAMBADI HOUSE, PEDENA, MATHAMANGALAM P.O,
MATHAMANGALAM AMSOM, KANNUR DISTRICT - 670306. BY ADVS.
V.T.MADHAVANUNNI SANAND V.A RESPONDENTS/STATE &
DEFACTO COMPLAINANT: 1 STATE OF KERALA REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,

ERNAKULAM, PIN - 682031. 2 SHEMEERA C AGED 35 YEARS W/O. MUTHALIB, CHEMBENTAKATH HOUSE, UTHOOR, NADUVIL P.O, NADUVIL AMSOM, TALIPARAMBA TALUK, KANNUR DISTRICT - 670582. BY ADV V.A.SATHEESH ADV SANGEETHARAJ N R-PP THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 03.11.2022, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ZIYAD RAHMAN A.A., J.

----- Crl.M.C.No.449 of 2022
----- Dated this the 3rd day of November, 2022

ORDER

The Petitioner is the accused in Crime No.130/2021 of Kudiyanmala Police Station, Kannur District, which is now pending as C.C. No.629 of 2021 on the files of the Judicial First Class Magistrate Court Thaliparamba. The offences alleged against the petitioner are under Sections 406 and 420 of Indian Penal Code, 1860.

2. The Prosecution case is as follows; The marriage between the

petitioner and the 2nd respondent/de facto complainant was solemnized on 12.02.2021. Later, taking advantage of the said relationship, the petitioner misappropriated 11 sovereigns of gold ornaments and an amount of Rs.60,000/- of the de facto complainant and thereby committed the above offences. Annexure-A1 is the FIR and Annexure- A2 is the final report submitted by the police. This Criminal M.C is filed for quashing all further proceedings in Annexure - A1 FIR and Annexure A2 final report.

3. Heard Shri. V.T.Madhavanunni, the learned Counsel

appearing for the Petitioner, Sri. Sangeetha Raj N.R., the learned Public Prosecutor for the state and Sri. V.A.Satheesh, the learned Counsel appearing for the 2nd respondent/de facto complainant.

4. Prayer for quashing the proceedings is sought mainly on the

ground that the dispute between the parties has been settled. Annexure-A4 affidavit sworn by the de facto complainant is filed along with this Crl.M.C. to substantiate the settlement. In the said affidavit, the 2nd respondent/de facto complainant had specifically acknowledged the aforesaid settlement and also conveyed the no-objection to quash

the proceedings against the petitioner herein. The learned counsel appearing for the respondent/de facto complainant also confirms the same. The learned Public Prosecutor, upon instructions, submitted that the Station House Officer concerned has verified the veracity of the same and found it to be genuine.

5. The allegations would reveal that the dispute is purely private

in nature. In such circumstances, by applying the principles laid down by the Honourable Supreme Court in *Gian Singh v. State of Punjab and Another* [(2012) 10 SCC 303], proceedings can be quashed by invoking the powers of this Court under Section 482 Cr.P.C. This is particularly because, on account of the settlement, no fruitful purpose would be served by allowing the prosecution to continue. In the result, this Crl.M.C. is allowed, and Annexure-A1 FIR submitted in Crime No.130 of 2021 of Kudiyanmala Police Station and all further proceedings in C.C.No.629 of 2021 on the files of the Judicial First Class Magistrate Court, Thaliparamba, against the petitioner are hereby quashed.

Sd/- ZIYAD RAHMAN A.A. JUDGE SAAP APPENDIX OF CRL.MC 449/2022
PETITIONER ANNEXURES Annexure A1 CERTIFIED COPY OF THE FIR IN
CRIME NO. THE STATEMENT. Annexure A2 CERTIFIED COPY OF THE FINAL
REPORT IN 130.2021 OF KUDIYANMALA POLICE STATION. Annexure A3
CERTIFIED COPY OF THE MEMO EVIDENCE IN Annexure A4 AFFIDAVIT OF
THE 2ND RESPONDENT. //True copy // PA to Judge

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