

Sherin vs the State of Kerala

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Court : Kerala

Decided On : Feb-16-2022

Judge : Honourable Dr. Justice Kauser Edappagath

Appeal No. : Crl.MC/493/2022

Appellant : Sherin

Respondent : The State of Kerala

Judgement :

CRL.MC NO. 493 OF 2022 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH
WEDNESDAY, THE 16TH DAY OF FEBRUARY 2022 / 27TH MAGHA,
1943 CRL.MC NO. 493 OF 2022 CRIME NO.1392/2013 OF
Kallambalam Police Station, Thiruvananthapuram IN CC 413/2018 OF
JUDICIAL MAGISTRATE OF FIRST CLASS, ATTINGAL (TEMPORARY)
PETITIONER/ACCUSED NO.5: SHERIN, AGED 30 YEARS
W/O.BABULAL, RESIDING AT UTHARAM HOUSE, CHEMMARUTHI
VILLAGE, THAIKADU DESOM, THIRUVANATHAPURAM DISTRICT -
695 145. BY ADVS. R.RAJESH (VARKALA) M.KIRANLAL MANU

RAMACHANDRAN T.S.SARATH SAMEER M NAIR
RESPONDENTS/STATE:

1 THE STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM - 682 031. 2 SHOBANA KUMARI, AGED 59 YEARS D/O.INDIRA BHAI, RESIDING AT RAJESH BHAVAN, PANAYARA, CHEMMARUTHI VILLAGE, THIRUVANANTHAPURAM DISTRICT - 695 145. 3 ASWATHI, AGED 31 YEARS D/O.INDIRA KUTTIYAMMA, RESIDING AT RAJESH BHAVAN, PANAYARA, CHEMMARUTHI VILLAGE, THIRUVANANTHAPURAM DISTRICT - 695 145. R1 BY SMT.T.V.NEEMA - SR.PP R2 & R3 BY ADV SABIKH MOHAMMED V.S

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 16.02.2022, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: CRL.MC NO. 493 OF 2022 2

ORDER

This Crl.M.C. has been preferred to quash Annexure A2 Final Report in Crime No.1392/2013 of Kallambalam Police Station and all further proceedings in C.C.No.413/2018 on the file of the Judicial First Class Magistrate (Temporary) Court, Attingal on the ground of settlement between the parties.

2. The petitioner is the 5th accused. The respondent No.2 is the de facto complainant.

3. All together there are seven accused. The offences alleged against the petitioner are under Sections 143, 147, 148, 149, 447, 427 and 506(ii) of IPC.

4. The respondent Nos.2 and 3 entered appearance through counsel. The affidavits sworn in by them are produced as Annexures A3 and A4.

5. I have heard Sri.R.Rajesh, the learned counsel for the

petitioner, Sri.Sabikh Muhammed V.S, the learned counsel for the CRL.MC NO. 493 OF 2022 3 respondent Nos.2 and 3 and Smt.T.V.Neema, the learned Senior Public Prosecutor.

6. The Supreme Court in *Lovely Salhotra & another v.*

State NCT of Delhi & another (Special Leave to Appeal (Crl.) No.1666/2017 dated 10.4.2017) was pleased to quash the proceedings as against one of the accused alone on the ground of settlement. That was a case where the High Court refused to quash the proceedings holding that the FIR cannot be quashed in part. This Court in *Sreejith v. State of Kerala and another* (Crl.3343/2021 dated 10.8.2021) was also pleased to quash the proceedings as against one of the accused alone on the ground of settlement.

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

sworn in by the 2nd and 3rd respondents 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 CRL.MC NO. 493 OF 2022 4 a statement of the de facto complainant was also recorded wherein she reported that the matter was amicably settled.

8. 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.

9. 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 CRL.MC NO. 493 OF 2022 5 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. All further proceedings in C.C.No.413/2018 on the file of the Judicial First Class Magistrate Court (Temporary) Court, Attingal as against the petitioner alone stands hereby quashed. Sd/- DR. KAUSER EDAPPAGATH JUDGE ab CRL.MC NO. 493 OF 2022 6 APPENDIX OF CRL.MC 493/2022 PETITIONER ANNEXURES Annexure A1 A CERTIFIED COPY OF THE FIR IN CRIME NO.1392 OF 2013 IN RECORD OF KALLAMBALAM POLICE STATION. Annexure A2 A CERTIFIED COPY OF THE FINAL REPORT FILED IN CRIME NO.1392 OF 2013 BY KALLAMBALAM POLICE. Annexure A3 THE ORIGINAL AFFIDAVIT SWORN BY 2ND RESPONDENT DATED 23/12/2021. Annexure A4 THE ORIGINAL AFFIDAVIT SWORN BY 3RD RESPONDENT DATED 23/12/2021. RESPONDENTS ANNEXURES : NIL

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