

Riyas vs State of Kerala

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Court : Kerala

Decided On : Jan-31-2022

Judge : Honourable Dr. Justice Kauser Edappagath

Appeal No. : Crl.MC/2177/2021

Appellant : RIYAS

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH
MONDAY, THE 31ST DAY OF JANUARY 2022 / 11TH MAGHA, 1943
CRL.MC NO. 2177 OF 2021 CC 443/2018 OF JUDICIAL MAGISTRATE
OF FIRST CLASS -IV,KOZHIKODE PETITIONER/ACCUSED: RIYAS
AGED 24 YEARS S/O. KOYAMON, KOTTAPAMCHALI HOUSE,
PARAPANANGADI P.O, MALAPPURAM DISTRICT. BY ADV
N.V.P.RAFEEQUE RESPONDENTS/STATE & DEFACTO
COMPLAINANT: 1 STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM -
682031. 2 XXXX X R2 BY ADV SMT.PRAJISHA M. SMT M K
PUSHPALATHA-SR PP THIS CRIMINAL MISC. CASE HAVING COME

UP FOR ADMISSION ON 31.01.2022, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: -:2:-

ORDER

Dated this the 31st day of January, 2022 This CrI.M.C. has been preferred to quash Annexure A2 Final Report in CC No.443/2018 on the file of the Judicial First Class Magistrate Court - IV, Kozhikode, on the ground of settlement between the parties.

2. The petitioner is the accused. The 2nd respondent is the de facto complainant.
3. The offence alleged against the petitioner is under Section 363 of IPC.
4. The 2nd respondent entered appearance through counsel. An affidavit sworn in by her mother is also produced.
5. I have heard Sri.Rafeeqe, the learned counsel for the petitioner, Smt.Prajisha, the learned counsel for the 2 nd respondent and Smt. Pushpalatha, the learned Public Prosecutor.
6. The averments in the petition as well as the affidavit sworn in by the mother of the 2 nd respondent would show that the entire dispute between the parties has been amicably settled and -:3:-

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.

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 offence in question does not fall within the category of offences -:4:- 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 Final Report in CC No.443/2018 on the file of Judicial First Class Magistrate Court-IV, Kozhikode stands hereby quashed.

Sd/- DR. KAUSER EDAPPAGATH JUDGE Rp -:5:- APPENDIX OF CRL.MC 2177/2021 PETITIONER ANNEXURES ANNEXURE A1 CERTIFIED COPY OF THE FIR IN CRIME NO. KOZHIKODE. ANNEXURE A2 CERTIFIED COPY OF THE FINAL REPORT IN CC NO. 443/2018 ON THE FILES OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT, IV, KOZHIKODE. ANNEXURE A3 AFFIDAVIT SWORN IN BY THE MOTHER OF THE DEFACTO COMPLAINT/VICTIM.

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