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Abdul Rasheed, vs the State of Kerala

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Court : Kerala

Decided On : Jan-31-2022

Judge : Honourable Dr. Justice Kauser Edappagath

Appeal No. : Crl.MC/3296/2021

Appellant : Abdul Rasheed,

Respondent : The 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. 3296 OF 2021 CR.NO.249/2019 OF KONDOTTY POLICE STATION IN CC 712/2019 OF JUDICIAL MAGISTRATE OF FIRST CLASS ,MALAPPURAM PETITIONERS/ACCUSED: 1 ABDUL RASHEED, AGED 33 YEARS S/O. HYDRU, 2 SAIDALAVI,S/O. HYDRU, AGED 36 YEARS, 3 AYISHABI, W/O. HYDRU, AGED 56 YEAR, BY ADV K.RAKESH RESPONDENTS/STATE, DEFACTO COMPLAINANT & INJURED:

1 THE STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, KOCHI 682 031. 2 THE STATION HOUSE OFFICER KONDOTTY POLICE STATION, MALAPPURAM DISTRICT 673 638. -:2:- 3 SHAHLA SHERIAN, AGED 26 YEARS D/O. SAJIRA, AGED 26 YEARS, KOTTUMMAL HOUSE, CHECODE P.O. KONDOTY VIA, MALAPPURAM DISTRICT 673 640. 4 SAJIRA, AGED 44 YEARS W/O. KUNHIMOIDEEN, AGED 44 YEARS, KOTTUMMAL HOUSE, CHECODE P.O. KONDOTY VIA, MALAPPURAM DISTRICT 673 640. BY ADV K.S.PRAVEEN R3 AND R4 SRI M P PRASANTH-PP

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 31.01.2022, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: -:3:-

ORDER

Dated this the 31st day of January, 2022 This Crl.M.C. has been preferred to quash Annexure B Final Report in Crime No. 249/2019 of Kondotty Police Station and further proceedings in C.C.No.712/2019 on the files of the Judicial First Class Magistrate, Malappuram on the ground of settlement between the parties.

2. The petitioners are the accused Nos. 1 to 3. The 3 rd respondent is the defacto complainant and 4th respondent is the mother of the 3rd respondent.

3. The offence alleged against the petitioners are under Sections 498A, 406, 341, 323 and 354 read with Section 34 of IPC.

4. The respondent Nos. 3 and 4 ntered appearance through counsel. Affidavits sworn in by them are also produced.

5. I have heard Sri. Rakesh K., the learned counsel for the petitioners, Sri. K.S. Praveen, the learned counsel for the respondent Nos. 3 and 4 and Sri. M.P. Prasanth, the learned Public Prosecutor. -:4:-

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

sworn in by the respondents 3 and 4 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 prevent abuse of process of any Court.

8. The dispute in the above case is purely personal in -:5:- nature. No public interest or harmony will be adversely affected

by quashing the proceedings pursuant to Annexure B. 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 Crl.M.C. is allowed. Annexure B Final Report in Crime No. 249/2019 of Kondotty Police Station and further proceedings in C.C.No.712/2019 on the files of the Judicial First Class Magistrate, Malappuram stands hereby quashed.

Sd/- DR. KAUSER EDAPPAGATH JUDGE kp True copy P.A. To Judge -:6:- APPENDIX OF CRL.MC 3296/2021 PETITIONER ANNEXURES Annexure A TRUE COPY OF THE F.I.R. IN CRIME NO. DATED 12.5.2019. Annexure B TRUE COPY OF THE MEMORANDUM OF EVIDENCE AND CHARGE IN CRIME NO. 249/2018 OF THE KONDOTTY POLICE STATION. Annexure C AFFIDAVIT SWORN TO BY THE 3RD RESPONDENT DATED 26.4.2021. Annexure D

AFFIDAVIT SWORN TO BY THE 4TH RESPONDENT DATED 26.4.2021.

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