

Roch Perera vs State of Kerala

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Court : Kerala

Decided On : Jul-29-2022

Judge : Honourable Dr. Justice Kauser Edappagath

Appeal No. : Crl.MC/4807/2022

Appellant : Roch Perera

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH
FRIDAY, THE 29TH DAY OF JULY 2022 / 7TH SRAVANA, 1944
CRL.MC NO. 4807 OF 2022 CRIME NO.1730/2021 OF Thumba Police
Station, Thiruvananthapuram CC 101/2022 OF JUDICIAL MAGISTRATE
OF FIRST CLASS -V, THIRUVANANTHAPURAM (SPECIAL COURT-
MARKLIST CASES) CR.NO.1730/2021 OF THUMBA POLICE STATION
PETITIONER/ACCUSED: ROCH PERERA, AGED 40 YEARS S/O.
ANDREWS PERERA, THYVILAKAM HOUSE, THUMBA SOUTH,
VALIYAVELI, ATTIPRA, POUNDUKADAVU,
THIRUVANANTHAPURAM., PIN - 695582 BY ADV SHAJIN S.HAMEED
RESPONDENTS/STATE & CW1: 1 STATE OF KERALA

REPRESENTED BY THE PUBLIC PROSECUTOR,HIGH COURT OF KERALA, ERNAKULAM., PIN - 682031 2 DIVYA @ DIVYA JOSEPH, AGED 27 YEARS D/O. JOSEPH JOHN, T.C.81/141, THYVILAKOM HOUSE, SOUTH THUMBA, VALIYAVELI, POUNDUKADAVU, THIRUVANANTHAPURAM DISTRICT., PIN - 695582 BY SMT. T.V. NEEMA, SR.PUBLIC PROSECUTOR SRI. A.K.RAJESH THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 29.07.2022, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: -:2:-

ORDER

Dated this the 29th day of July, 2022 This Crl.M.C. has been preferred to quash Annexure A Final Report in Crime No. 1730/2021 now pending as C.C.No.101/2022 on the file of the Judicial First Class Magistrate V (Special Court for Marklist Cases), Vanchiyoar, Thiruvananthapuram on the ground of settlement between the parties.

2. The petitioner is the accused. The 2nd respondent is the defacto complainant.
3. The offences alleged against the petitioners are punishable under Sections 451, 294(b), 354, 354 A (1)(i) of IPC.
4. The respondent No.2 entered appearance through counsel. An affidavit sworn in by her is also produced.
5. I have heard Sri. Shajin S. Hameed, the learned counsel for the petitioner, Sri. A.K. Rajesh, the learned counsel for the respondent No.2 and Smt..T.V. Neema, the learned Senior Public Prosecutor.
6. The averments in the petition as well as the affidavit sworn in by the respondent No.2 would show that the entire -:3:- dispute between the parties has been amicably settled and the de facto complainant has decided not to proceed with the criminal proceedings 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 by 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 the 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 -:4:-

by quashing the proceedings pursuant to Annexure A. 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 any further. Accordingly, the Crl.M.C. is allowed. Annexure A Final Report in Crime No. 1730/2021 now pending as C.C.No.101/2022 on the file of the Judicial First Class Magistrate V (Special Court for Marklist Cases), Vanchiyoore, Thiruvananthapuram hereby stands quashed.

sd/- DR. KAUSER EDAPPAGATH JUDGE kp -:5:- APPENDIX OF CRL.MC 4807/2022 PETITIONER ANNEXURES Annexure-A CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.1730/2021 OF THUMBA POLICE STATION. Annexure-B AFFIDAVIT EXECUTED BY THE 2ND RESPONDENT.

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