

Akbar vs State of Kerala

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Court : Kerala

Decided On : Jan-24-2022

Judge : Honourable Dr. Justice Kauser Edappagath

Appeal No. : Crl.MC/4673/2021

Appellant : AKBAR

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH
MONDAY, THE 24TH DAY OF JANUARY 2022 / 4TH MAGHA, 1943
AGAINST THE ORDER/JUDGMENT DATED 14.12.2015 IN CC
293/2011 OF JUDICIAL MAGISTRATE OF FIRST CLASS
,CHAVAKKAD CRIME NO. 88/2011 OF CHAVAKKAD POLICE
STATION PETITIONER/ACCUSED: AKBAR AGED 50 YEARS S/O.
BEERANKUNJU, CHEENICKAL HOUSE, ANCHANGADI, KADAPURAM
VILLAGE, THRISSUR DISTRICT, PIN-680684. BY ADV E.VIJIN
KARTHIK RESPONDENTS/STATE/DEFACTO COMPLAINANT/PW-1: 1
STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, PIN-682031. 2 NEBEELA

AGED 38 YEARS W/O. HARIS, CHEENIKKAL HOUSE, ANCHANGADI, KADAPURAM VILLAGE, THRISSUR DISTRICT, PIN-680684. BY ADV R.ROHITH OTHER PRESENT: SMT T V NEEMA- SR PP THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 24.01.2022, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

This Crl.M.C has been filed to quash the entire proceedings initiated in terms of the Final Report in Crime No. 88/2011 of Chavakkad Police Station and to set aside the conviction and sentence passed by the Judicial First Class

Magistrate, Chavakkad in C.C. No.293/2011 vide judgment

dated 14.12.2015 invoking Section 482 Cr.P.C.

2. The petitioner is the accused. He was prosecuted

at the Judicial First Class Magistrate Court, Chavakkad for the offences punishable under Sections 323, 324 and 506(1) of the IPC. After trial, the learned Magistrate found that the petitioner is guilty under Sections 323 and 324 of the IPC and was convicted and sentenced for the said offences. Challenging the said conviction and sentence, the petitioner preferred Crl.Appeal No. 304/2015 which is pending at the 4th Additional District and Sessions Court, Thrissur.

3. The second respondent is the defacto complainant. Now the entire disputes between the petitioner and the second respondent are amicably settled. In view of the settlement, the petitioner has preferred this Crl. M.C.

4. I have heard Sri. E.Vijin Karthik, the learned counsel for the petitioner and Smt. T.V.Neema, the learned Senior Public Prosecutor.

5. The second respondent has sworn in an affidavit.

The affidavit shows that the entire dispute has been amicably settled between the parties. This Court in *Soban Vs. State of Kerala* (2021 (3) KHC 384) has held that the criminal proceedings involving non-compoundable offence could be quashed notwithstanding the fact that the order of conviction was already passed against the accused provided, the offence in question does not fall in the category of

offence prohibited for compounding in terms of the pronouncement of the orders of 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].

6. The offence in question is purely a private dispute.

The parties are close relatives.

No serious injury h

proceedings. 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 the above mentioned three cases. Keeping in view of the nature and gravity of the offences and the facts and circumstances of the case, I am of the view that this CrI.M.C. can be allowed. Accordingly, this CrI.M.C. is allowed. The entire proceedings initiated in terms of Crime No. 88/2011 of Chavakkad Police Station is quashed. The conviction and sentence of the petitioner vide Annexure A3 judgment are set aside.

Sd/- DR. KAUSER EDAPPAGATH JUDGE al/- APPENDIX OF CRL.MC 4673/2021 PETITIONER ANNEXURES Annexure A1 CERTIFIED COPY OF THE FIR IN CRIME NO.88/2011 OF THE CHAVAKKAD POLICE STATION. Annexure A2 CERTIFIED COPY OF THE CHARGE IN CRIME NO.88/2021 OF THE CHAVAKKAD POLICE STATION. Annexure A3 CERTIFIED COPY OF THE JUDGMENT IN CC NO.293/2011 ON THE FILES OF THE JUDICIAL FIRST CLASS MAGISTRATE, CHAVAKKAD. Annexure A4 AFFIDAVIT SWORN BY THE 2ND RESPONDENT/DE-FACTO COMPLAINANT DATED 24.7.2021.

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