

Kabir a.E. vs State of Kerala

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Court : Kerala

Decided On : Oct-06-2022

Judge : Honourable Dr. Justice Kauser Edappagath

Appeal No. : Crl.MC/5854/2022

Appellant : Kabir a.E.

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH
THURSDAY, THE 6TH DAY OF OCTOBER 2022 / 14TH ASWINA, 1944 CRL.MC
NO. 5854 OF 2022 CRIME NO.328/2019 OF Tanur Police Station, Malappuram
CC 820/2019 OF JUDICIAL MAGISTRATE OF FIRST CLASS
PARAPPANANGADI PETITIONERS/ACCUSED 1 TO 3:

1 KABIR A.E. AGED 43 YEARS SON OF IBRAHIM, ATHANIKKAL
HOUSE, KANDANAKAM, KALADY P.O., MALAPPURAM., PIN - 679582
2 ASHRAF AGED 58 YEARS SON OF MAMUTTY, AGED 58 YEARS,
KIZHAKKEPAT HOUSE, PERUMPILAV, KAREEKKAD P.O.,
MALAPPURAM., PIN - 3 SUBAIDA AGED 46 YEARS WIFE OF

ASHRAF, AGED 46 YEARS, KIZHAKKEPAT HOUSE, PERUMPILAV,
KAREEKKAD P.O., MALAPPURAM., PIN - BY ADVS.P.K.NIJOY
C.PRABITHA REJOICE B.CHEMBAKASSERIL

RESPONDENTS/STATE & COMPLAINANT: -:2:- 1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN -
682031 2 HASBI AGED 28 YEARS DAUGHTER OF MUHAMMEDKUTTY,
PATTAYATH HOUSE, THANALLOOR, VATTATHANI, K PURAM P.O., TANUR,
MALAPPURAM., PIN - 676307 BY ADVS. SRI. G. SUDHEER, PUBLIC
PROSECUTOR MAHESH V MENON THIS CRIMINAL MISC. CASE HAVING
COME UP FOR ADMISSION ON 06.10.2022, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING: -:3:-

ORDER

Dated this the 6th day of October, 2022 This Crl.M.C. has been preferred to quash
Annexure A3 Final Report in Crime No.328/2019 of Tanur Police Station now
pending as C.C.No.820/2019 on the file of the Judicial First Class Magistrate
Court, Parappanangadi on the ground of settlement between the parties.

2. The petitioners are the accused Nos. 1 to 3. The 2 nd respondent is the defacto-
complainant.

3. The offences alleged against the petitioners are punishable under Sections
498A, 406 read with 34 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. Nijoy P.K., the learned counsel for the petitioners, Sri. Mahesh
V. Menon, the learned counsel for the respondent No.2 and Sri. G. Sudheer, the
learned 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 -:4:- 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 -:5:-

by quashing the proceedings pursuant to Annexure A3. 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 A3 Final Report in Crime No.328/2019 of Tanur Police Station now pending as C.C.No.820/2019 on the file of the Judicial First Class Magistrate Court, Parappanangadi hereby stands quashed.

sd/- DR. KAUSER EDAPPAGATH JUDGE kp -:6:- APPENDIX OF CRL.MC 5854/2022 PETITIONER ANNEXURES Annexure A1 CERTIFIED COPY OF THE COMPLAINT DATED 10-7-2019 FILED BEFORE THE SUPERINTEND OF POLICE, MALAPPURAM Annexure A2 CERTIFIED COPY OF THE FIR IN CRIME NO. 328 OF 2019 OF THE TANUR POLICE STATION, MALAPPURAM DATED 21-9-2015 Annexure A3 CERTIFIED COPY OF THE FINAL REPORT DATED 28-9-2019 IN CRIME NO. 328 OF 2019 IS PRODUCED HERewith AND MARKED

AS ANNEXURE A3 Annexure A3(a) CERTIFIED COPY OF THE WITNESS LIST
IN CRIME NO. 328 OF 2019 Annexure A4 TRUE COPY OF THE AFFIDAVIT
DATED 11-8- 2022 OF THE 2ND RESPONDENT

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