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Sunil Kumar vs State of Kerala

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Court : Kerala Orders

Decided On : Jan-20-2022

Judge : Honourable Mr. Justice Gopinath P.

Appeal No. : Bail Appl./8899/2020

Appellant : Sunil Kumar

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P. THURSDAY, THE 20TH DAY OF JANUARY 2022 / 30TH POUSHA, 1943 CRL.MC NO. 5810 OF 2021 CRIME NO.714/2020 OF Ernakulam North Police Station, Ernakulam AGAINST THE ORDER IN CMP 845/2020 OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE , ERNAKULAM PETITIONERS/ACCUSED NOS.1 TO 4, 7 & 10:

1 ATHIRA JAYARAJ AGED 32 YEARS D/O.JAYARAJ, 10D, KENT PAMGROOV FLAT COMPLEX, STADIUM LINK ROAD,KALOOR, ERNAKULAM-682017. CHARMS, BHUVANESWARI ROAD, VYTTILLA, ERNAKULAM- 682019.REPRESENTED BY ITS POWER OF

ATTORNEY HOLDER SMT.INDU JAYARAJ, AGED 58 YEARS, W/O.LATE JAYARAJ, CHARMS, BHUVESWARI ROAD, VYTTILLA, ERNAKULAM -682019. (NOW RESIDING AT FLAT NO.10-D, KENT PALM GROVE, STADIUM LINK ROAD, KALOOR, KOCHI-682017).

2 REMYA JAYARAJ, AGED 30 YEARS D/O.JAYARAJ, 10D, KENT PAMGROOV FLAT COMPLEX, STADIUM LINK ROAD,KALOOR, ERNAKULAM-682017. CHARMS, BHUVANESWARI ROAD, VYTTILLA, ERNAKULAM- 682019.REPRESENTED BY ITS POWER OF ATTORNEY HOLDER SMT.INDU JAYARAJ, AGED 58 YEARS, W/O.LATE JAYARAJ, CHARMS, BHUVESWARI ROAD, VYTTILLA, ERNAKULAM -682019. (NOW RESIDING AT FLAT NO.10-D, KENT PALM GROVE, STADIUM LINK ROAD, KALOOR, KOCHI-682017).

3 INDU JAYARAJ, AGED 58 YEARS W/O.LATE JAYARAJ, FLAT NO.10-D, KENT PALM GROVE, STADIUM LINK ROAD,KALOOR, KOCHI-682017.PERMANENTLY RESIDING AT: FLAT NO.1A-5, SHWAS MYSTIC CHARMS, BHUVANESWARI ROAD, VYTTILLA, ERNAKULAM-682019. 4 RAJU.K.K, AGED 47 YEARS S/O.KUMARAN, KALAPATTU(H), KADAVANTHRA, KOCHI-682020. Crl.M.C.No.5810/2021 & conn.case 2 5 BINU JOSEPH, AGED 44 YEARS S/O.JOSEPH, PATTOMPARAMBIL(H), IDUKKI COLONY.P.O, IDUKKI DISTRICT-685602.

6 SUNIL KUMAR, AGED 52 YEARS S/O.N.SUBRAMANAIAN PROPRIETOR, M/S. JESKAY CONSTRUCTIONS, BY ADVS. MILLU DANDAPANI RAMEEZ NOOH RESPONDENTS/STATE & DE-FACTO COMPLAINANT: 1 STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM-682031. 2 MINU PAULIN,AGED 31 YEARS W/O.AMAL, LIG NO.767, PANAMPILLY NAGAR, ERNAKULAM- 682036. BY ADVS. S.SREEKUMAR (SR.) P.MARTIN JOSE P.PRIJITH THOMAS P.KURUVILLA R.GITHESH HARIKRISHNAN S. SMT.SEETHA (PP)

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 20.01.2022, ALONG WITH Bail Appl..8899/2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Crl.M.C.No.5810/2021 & conn.case 3

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P. THURSDAY, THE 20TH DAY OF JANUARY 2022 / 30TH POUSHA, 1943 BAIL APPL. NO. 8899 OF 2020 CRIME NO.714/2020 OF Ernakulam North Police Station, Ernakulam PETITIONER/ACCUSED: SUNIL KUMAR,AGED 52 YEARS,S.O. N. SUBRAMANIAN, PROPRIETOR, M.S. YESKAY CONSTRUCTIONS, 36 OF 2226, KERALA ITC BUILDING, KALOOR ERNAKULAM, PIN - 682017 BY ADVS.S.RAJEEV SRI.K.K.DHEERENDRAKRISHNAN SRI.V.VINAY SRI.K.ANAND (A-1921) RESPONDENTS: 1 STATE OF KERALAREPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA ERNAKULAM, PIN - 682031 2 ADDL. R2 MINU PAULINE,AGED 31 YEARS,W/O AMAL, LIG NO. 767,13THSTREET, PANAMPILLY NAGAR,ERNAKULAM , PIN - 682036. IS IMPLEADED AS PER THE ORDER DATED 8.1.2021 IN CRL.M.A.NO.3/2020. BY ADVS.S.SREEKUMAR (SR.) SRI.P.MARTIN JOSE SRI.P.PRIJITH SRI.THOMAS P.KURUVILLA SRI.R.GITHESH SRI.MANJUNATH MENON SRI.AJAY BEN JOSE SRI.SACHIN JACOB AMBAT SHRI.HARIKRISHNAN S. THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 20.01.2022, ALONG WITH Crl.MC.5810/2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: Crl.M.C.No.5810/2021 & conn.case 4

ORDER

[Crl.MC Nos.5810/2021 & B.A.No.8899/2020] Crl.MC Nos.5810/2021 The petitioners in these cases are accused Nos.1 to 4, 7 & 10 in Crime No.714/2020 of Ernakulam Town North Police Station alleging commission of offences under Sections 395, 457, 323, 324, 506, 509, 427, 120B, 354B, 201 & 147 of the Indian

Penal Code r/w. Section34 of the Indian Penal Code.

2. When this matter is taken up today for consideration along with

B.A.No.8899/2020, it is the submission of the learned counsel appearing for the petitioners that the petitioners and the de facto complainant, who is impleaded as respondent No.2 in Crl.M.C.No.5810/2021, have settled their disputes as is evident from Annexure-D. It is also pointed out that the terms of the settlement were actually finalised in O.S.No.873/2020 filed by the de facto complainant before the Munsiff Court, Ernakulam. A copy of the memorandum of settlement executed in O.S.No.873/2020 is placed on record as Annexure-C.

3. I have heard the learned Public Prosecutor and the learned counsel appearing for the de facto complainant also.

4. The learned Public Prosecutor submits that the statement of the

de facto complainant has been recorded where she has agreed that all disputes between her and the accused in the case have been settled. The learned counsel for the de facto complainant/2nd respondent does not dispute this. Crl.M.C.No.5810/2021 & conn.case 5 Having regard to the above, I am of the opinion that this Criminal Miscellaneous Case can be allowed and all further proceedings pursuant to Annexure-A F.I.R. in Crime No.714/2020 on the file of the Ernakulam Town North Police Station can be quashed as against the petitioners, in the light of the principles laid down in Gian singh v. State of Punjab;

(2012) 10 SCC 303.

B.A.No.8899/2020 The above bail application has been filed by the 10 th accused (1st accused as per report dated 5.1.2022 filed by the Public Prosecutor) in Crime No.714/2020 of Ernakulam Town North Police Station seeking anticipatory bail.

2. I have, by my order in Crl.M.C.No.5810/2021, quashed the

proceedings in Crime No. 714/2020 of Ernakulam Town North Police Station as against the petitioner in B.A.No.8899/2020 also. In the result, no further orders are required in B.A.No.8899/2020. It is accordingly dismissed. Sd/- GOPINATH P.

JUDGE acd Crl.M.C.No.5810/2021 & conn.case 6 APPENDIX OF CRL.MC 5810/2021 PETITIONER ANNEXURES Annexure A CERTIFIED COPY OF THE FIR IN CRIME NO.714 OF 2020 REGISTERED BY THE ERNAKULAM TOWN NORTH POLICE STATION. Annexure B CERTIFIED COPY OF THE C.M.P.NO.845 OF 2020 PREFERRED BY THE DE-FACTO COMPLAINANT BEFORE THE ACJM COURT, ERNAKULAM. Annexure C TRUE COPY OF THE SETTLEMENT AGREEMENT

ENTERED INTO BETWEEN THE PARTIES ON 17.11.2021 IN O..SNO.873 OF 2020 BEFORE THE HON'BLE MUNSIFF'S COURT, ERNAKULAM. Annexure D THE AFFIDAVIT SWORN IN BY THE 2ND RESPONDENT ON 17.11.2021.

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