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Majinas vs State of Kerala

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Court : Kerala

Decided On : Feb-01-2022

Judge : Honourable Dr. Justice Kauser Edappagath

Appeal No. : Crl.MC/6453/2021

Appellant : Majinas

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH TUESDAY, THE 1ST DAY OF FEBRUARY 2022 / 12TH MAGHA, 1943 CRL.MC NO. 6453 OF 2021 CRIME NO.948/2021 OF Balussery Police Station, Kozhikode PETITIONERS/ACCUSED 1 & 2: 1 MAJINAS, AGED 29 YEARS S/O.MANSOOR P.K., PEEDIKA VALLAPIL HOUSE, EKAROOL P.O., UNNIKULAM, KOZHIKODE DIST. PIN 673 574 2 SAKEENA, AGED 47 YEARS W/O.MANSOOR P.K., PEEDIKA VALLAPIL HOUSE, EKAROOL P.O., UNNIKULAM, KOZHIKODE DIST. PIN 673 574 BY ADV N.V.VINAY RESPONDENTS/STATE/DEFACTO COMPLAINANT: 1 STATE OF KERALA, REP.BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM 2 NAFIYA,AGED 19 YEARS, D/O RASHEED KETTINTEKAAYIL HOUSE, PERUMPALLY P.O., THAMARASSERY TALUK,

KOZHIKODE DISTRICT, PIN CODE 673 588 BY ADV K.BRIJUL SMT. T.V. NEEMA, SR. PP THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 01.02.2022, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: -:2:-

ORDER

Dated this the 1st day of February, 2022 This Crl.M.C. has been preferred to quash Annexure A1 FIR in Crime No.948/2021 of Balussery Police Station on the ground of settlement between the parties.

2. The petitioners are the accused Nos. 1 and 2. The 2 nd respondent is the defacto complainant.

3. The offence alleged against the petitioners are under Sections 406 and 498A 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. Vinay N.V, the learned counsel for the petitioners, Sri. K. Brijul, 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 dispute between the parties has been amicably settled and the -:3:-

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 nature. No public interest or harmony will be adversely affected by quashing the proceedings pursuant to Annexure A1. The -:4:-

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 A1 FIR in Crime No.948/2021 of Balussery Police Station stands hereby quashed.

Sd/- DR. KAUSER EDAPPAGATH JUDGE kp True copy P.A. To Judge -:5:- APPENDIX OF CRL.MC 6453/2021 PETITIONER ANNEXURES Annexure A1 TRUE COPY OF F.I.R NO.948 OF 2021 OF BALUSSERY POLICE STATION, KOZHIKODE Annexure A2 AFFIDAVIT DATED 16.12.2021 SIGNED BY 2ND RESPONDENT GIVEN IN FAVOUR OF THE RESPONDENTS Annexure A3 TRUE COPY OF THE AGREEMENT DATED 12.11.2021 MADE BETWEEN THE 1ST PETITIONER AND 2ND RESPONDENT

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