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Vijayan 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/6538/2021

Appellant : Vijayan

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. 6538 OF 2021 CRIME NO.1034/2014 OF Guruvayoor Police Station, CC PETITIONERS/ACCUSED: 1 VIJAYAN, AGED 72 YEARS S/O. APPU, PONNARASSERY HOUSE, ALOOR VILLAGE, 2 SREEMATHI, AGED 68 YEARS W/O. VIJAYAN, PONNARASSERY HOUSE, ALOOR VILLAGE, 3 PRATHEESH AGED 44 YEARS S/O. VIJAYAN, PONNARASSERY HOUSE, ALOOR VILLAGE, BY ADV RAJIT RESPONDENTS/STATE/DEFACTO COMPLAINANT: 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM - 682 031. -:2:- 2 SANTHA M K AGED 50 YEARS W/O. BALAN, PONNARASSERY HOUSE, MATTAM VILLAGE, ALOOR DESAM,

KUNNAMKULAM TALUK, THRISSUR DISTRICT - 680 602. BY ADV V.V.JOY R2 SRI. M.P PRASANTH, PP THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 01.02.2022, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: -:3:-

ORDER

Dated this the 1st day of February, 2022 This Crl.M.C. has been preferred to quash Annexure A Final Report in C.C.No. 2020/2014 on the files of the Judicial First Class Magistrate Court, Chavakkad 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 under Sections 341, 447, 323, 324, 294(b) and 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. Rajit, the learned counsel for the petitioners, Sri. V.V Joy, the learned counsel for the respondent No.2 and Sri. M.P. Prasanth, 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 dispute between the parties has been amicably settled and the -:4:-

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 A. The -:5:-

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 A Final Report in C.C.No. 2020/2014 on the files of the Judicial First Class Magistrate Court, Chavakkad stands hereby quashed. Sd/- DR. KAUSER EDAPPAGATH JUDGE kp True copy P.A. To Judge -:6:- APPENDIX OF CRL.MC 6538/2021 PETITIONER ANNEXURES Annexure A CERTIFIED COPY OF THE FINAL REPORT IN CC NO.2020/2014 FILED BY THE GURUVAYUR POLICE BEFORE THE LEARNED JUDICIAL FIRST CLASS MAGISTRATE COURT, CHAVAKKAD DATED 06.08.2014. Annexure B A TRUE COPY OF THE AFFIDAVIT FILED BY THE 2ND RESPONDENT.

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