

Dennis vs John

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Court : Kerala

Decided On : Nov-30-2021

Judge : Honourable Mr. Justice K.Haripal

Appeal No. : Crl.MC/2755/2019

Appellant : Dennis

Respondent : JOHN

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE K.HARIPAL TUESDAY, THE 30TH DAY OF NOVEMBER 2021 / 9TH AGRAHAYANA, 1943 CRL.MC NO. 2755 OF 2019 CC 3187/2013 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, CHAVAKKAD PETITIONERS/ACCUSED: DENNIS AGED 46 YEARS D/O.THOMAS, ELUVATHINAGAL HOUSE, CHAVAKKAD VILLAGE, ARIMBOOR DESOM, THRISSUR DISTRICT BY ADV. MADHU RADHAKRISHNAN RESPONDENTS/DEFACTO - COMPLAINANT, STATE: 1 JOHN AGED 45 YEARS S/O.PORINCHU, MANGAN HOUSE, VADANAPPILLY, THRISSUR DISTRICT 2 STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, KOCHI-31 R1 BY ADV. M.D.JOSEPH R2 BY SRI. C.S. HRITHWIK, SENIOR PUBLIC

PROSECUTOR THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 30.11.2021, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Crl.M.C.No.2755 OF 2019 2

ORDER

Petitioner is the sole accused in C.C. No. 3187/2013 on the file of the Judicial First Class Magistrate Court, Chavakkad where she faces allegations under Sections 420, 468 and 471 of the Indian Penal Code. She is a recurring deposit collector, Mahila Prathan Agent attached to Thalikulam block. The allegation is that during the period between 31.10.2005 to 09.01.2009, she had collected numerous amounts from CWs 1 to 3, making them believe that the amount will be credited in their post office accounts. But later it came out that without crediting the amounts in the respective accounts, siphoned off an amount of Rs. 3,03,000/-, and thereby committed the above stated offences.

2. She faces allegations under the above stated offences.

Petitioner has now moved this Court under Section 482 of the Code of Criminal Procedure seeking to quash the proceedings on the ground that the matter has been settled in mediation and the defacto complainants who are CWs 1 to 3 do not have subsisting grievance Crl.M.C.No.2755 OF 2019 3 against her.

3. I head the learned counsel for the petitioner and also the learned Senior Public Prosecutor.

4. Annexure 5 and 6 affidavits of CWs 2 and 3 and the statement of the first respondent dated 01.03.2019 clearly indicate that the case is settled and they do not want to pursue the proceedings.

5. In fact, it cannot be treated as a mere monetary deal

between the parties; it is quite evident from the statements that the petitioner had siphoned off the money entrusted with her by CWs 1 to 3.

However, now the first respondent and other witnesses who are the victims of the misconduct of the petitioner have condoned her acts and they do not want to continue the proceedings. In the circumstances, even if the parties are driven to the court for trial, material witnesses are not going to support the case and hence it would be mere waste of time and energy of the Court and the parties.

6. In the light of these circumstances and since the amount involved is only Rs. 3,03,000/-, further proceedings in C.C. No. CrI.M.C.No.2755 OF 2019 4 Chavakkad are quashed and the petitioner shall stand exonerated. CrI. M.C. is disposed of as above. Sd/- K.HARIPAL JUDGE

DCS/30.11.2021 CrI.M.C.No.2755 OF 2019 5 APPENDIX PETITIONER'S ANNEXURE ANNEXURE 1 CERTIFIED COPY OF THE FIR NO.769/2010 OF VADANAPPILLY POLICE STATION ANNEXURE 2 A CERTIFIED COPY OF THE FINAL REPORT DATED 21.3.2012 ANNEXURE 3 A CERTIFIED COPY OF THE ORDER REFERRING THE COURT OF MEDIATION AT THE MEDIATION SUB CENTRE, CHAVAKKAD ANNEXURE 4 CERTIFIED COPY OF THE MEDIATION AGREEMENT DATED AUGUST, 2018 ANNEXURE 5 AFFIDAVIT DATED 1ST DAY OF MARCH, 2019, FILED BY SEENA ANNEXURE 6 AFFIDAVIT DATED 1ST DAY OF MARCH, 2019 FILED BY SUNNY.

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