

Abil Paul vs State of Kerala

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Court : Kerala

Decided On : Sep-28-2021

Judge : Honourable Mrs. Justice M.R.Anitha

Appeal No. : Crl.MC/4060/2021

Appellant : Abil Paul

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE M.R.ANITHA
TUESDAY, THE 28TH DAY OF SEPTEMBER 2021 / 6TH ASWINA,
1943 CRL.MC NO. 4060 OF 2021 AGAINST THE ORDER/JUDGMENT
IN CC 628/2021 OF JUDICIAL MAGISTRATE OF FIRST CLASS
,KUNNAMKULAM, THRISSUR CRIME NO.1682/2020 OF
KUNNAMKULAM POLICE STATION PETITIONERS/ACCUSED: 1 ABIL
PAUL AGED 33 YEARS S/O. PAUL VARGHESE, PANANJIKKAL
VEEDU, MALAYATTUR, MALAYATTUR 2 PAUL VARGHESE, AGED 67
YEARS S/O. VARGHESE, PANANJIKKAL VEEDU, MALAYATTUR.
MALAYATTUR 3 SHYVI PAUL AGED 60 YEARS W/O. PAUL
VARGHESE, PANANJIKKAL VEEDU, MALAYATTUR, MALAYATTUR

BY ADV K.ASHIS RESPONDENTS/RESPONDENT/COMPLAINANT: 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM - 682031. 2 ANU K.XAVY D/O. KUTTIKKATTU XAVY, KUTTUKKATTU HOUSE, CHIRANALLUR VILLAGE, THALAKKOTTUKARA, KUNNAMKULAM, THRISSUR - 680501. R2 BY ADV N.L.BITTO OTHER PRESENT: PP.C.SEENA THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28.09.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER

Petitioners are accused in crime No.1682/2020 of

Kunnamkulam Police Station, which has been registered for the offence punishable under Sections 498(A), 323, 406, 420, 506 r/w. 34 IPC, which is now pending as C.C.No.628/2021 on the file of the Judicial First Class Magistrate Court, Kunnamkulam. This CrI.M.C. has been filed seeking to quash the entire proceedings in the above referred crime.

2. First petitioner is the husband of the defacto complainant and petitioners 2 and 3 are the father-in-law and mother-in-law of the defacto complainant.

3. It is alleged that on 28.05.2017 first accused married

the defacto complainant as per the religious rites and rituals of Christian religion and thereafter while living together as husband and wife at his house at Malayattur and also in the house of the defacto complainant at Thalakkottukara she had been subjected to physical and mental torture by the accused persons alleging that the 70 sovereigns of gold ornaments and Rs.25 lakhs brought by her as dowry are less, thereby accused

committed the offences aforementioned.

4. According to the petitioners, the entire matter has

been amicably settled between the petitioners and the 2nd respondent - defacto complainant. Petitioner produced Annexure-I copy of F.I.R in Crime No.1682/2020, Annexure-II copy of final report in the crime which has been taken on file as C.C.No.628/2021 on the file of the Judicial First Class Magistrate Court, Kunnankulam and Annexure-III affidavit duly sworn in by the 2nd respondent - defacto complainant.

5. Adv. Sri. N.L. Bitto appeared on behalf of the second respondent - defacto complainant and reports the settlement arrived at between the parties.

6. Learned Public Prosecutor, on instruction reported that the statement of the defacto complainant has been taken and she supports the version in the affidavit produced from the side of the petitioner.

7. In *Gian Singh v. State of Punjab and Another*

(2012 (10) SCC 303 : 2012 KHC 4530) a three Judge Bench of the Hon'ble Supreme Court while dealing with Section 482 of the Code of Criminal Procedure, 1973 has held that criminal cases having civil flavour and arising from criminal financial merchantile, civil, partnership, matrimony relating to dowry or family disputes where wrong is private or personal in nature can be quashed in view of the settlement between the parties.

8. Annexure-III - affidavit sworn in by the defacto

complainant would specifically state that the matter has been amicably settled between the petitioners and 2nd respondent and she has no objection in quashing the proceedings against the petitioners in crime No.1682/2020 of Kunnankulam Police Station, now pending as C.C.No.628/2021 on the file of the Judicial First Class Magistrate Court, Kunnankulam. It is also stated that they have obtained a decree of divorce from the Family Court, Thrissur in O.P.No.200/2021 and now living separately. So it appears that the entire issues between the parties have been amicably settled. No public interest is involved and the issue is purely private in nature. So there is no impediment in quashing the proceedings against the petitioners

and further continuance of the proceedings against the petitioners also will be an abuse of process of law. Therefore, I am of the view that it is only just and proper to quash the entire proceedings pursuant to crime No.1682/2020 of Kunnampulam Police Station, now pending as C.C.No.628/2021 on the file of the

Judicial First Class Magistrate Court, Kunnampulam. It is ordered accordingly. In the result, Crl.M.C. stands allowed. Sd/- M.R.ANITHA shg JUDGE APPENDIX OF CRL.MC 4060/2021 PETITIONER ANNEXURE Annexure 1 CERTIFIED COPY OF THE F.I.R IN CRIME NUMBER 1682 OF 2020 OF KUNNAMKULAM POLICE STATION, Annexure II CERTIFIED COPY OF THE FINAL REPORT IN CRIME NUMBER 1682 OF 2020 OF KUNNAMKULAM POLICE STATION, Annexure III AFFIDAVIT SWORN BY THE 2ND RESPONDENT DATED 29.07.2021.

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