

Rasheed vs State of Kerala

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Court : Kerala

Decided On : Oct-01-2021

Judge : Honourable Mrs. Justice M.R.Anitha

Appeal No. : Crl.MC/5470/2020

Appellant : Rasheed

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE M.R.ANITHA FRIDAY,
THE 1ST DAY OF OCTOBER 2021 / 9TH ASWINA, 1943 CRL.MC NO.
5470 OF 2020 CRIME NO.952/2020 OF THAMARASSERY POLICE
STATION PETITIONER/ACCUSED: RASHEED AGED 39 YEARS
S/O.SULAIMAN, VADIKKAL HOUSE, THACHAMPOYIL P.O.,
THAMARASSERY TALUK, KOZHIKODE DISTRICT. BY ADV
B.MUHAMMED SHAHEEL RESPONDENTS/STATE/DEFACTO
COMPLAINANT/INJURED:

1 STATE OF KERALA REPRESENTED BY THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, COCHIN-

682 031 (INVESTIGATING OFFICER IN CRIME NO.952/2020 OF THAMARASSERY POLICE STATION PENDING BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT I, THAMARASSERY). 2 SAEEDA AGED 32 YEARS D/O.MUHAMMED, VADIKKAL HOUSE, THACHAMPOYIL P.O., THAMARASSERY TALUK, KOZHIKODE DISTRICT, PIN CODE-673 573. 3 ADIL MUBARAK, AGED 17 YEARS S/O.RASHEED, (MINOR) REPRESENTED BY MOTHER SAEEDA, D/O.MUHAMMED, AGED 32 YEARS, VADIKKAL HOUSE, THACHAMPOYIL P.O., THAMARASSERY TALUK, KOZHIKODE DISTRICT, PIN CODE-673 573. R2 & R3 BY ADV K.REEHA KHADER

OTHER PRESENT: PP C.SEENA THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 01.10.2021, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

This Petitioner is the sole accused in crime No.952/2020 of Thamarassery Police Station, which has been registered u/s.406, 498-A, 341, 323, 324 and 506 IPC. This Crl.M.C. has been filed seeking to quash the entire proceedings in Annexure-AI FIR in the above crime.

2. It is alleged that the petitioner married the

2nd respondent - defacto complainant on 28.10.2002. Thereafter, they have been living together as husband and wife at Thachampoyil, Vadikkal House, Thamarassery. While so, she had been subjected to various physical and mental torture by the petitioner and also misappropriated the gold ornaments given to her at the time of marriage, thereby, the accused committed the offences aforementioned.

3. It is submitted by the learned counsel for the petitioner

that, now the entire matter has been settled amicably between the petitioner and the 2nd respondent - defacto complainant. 3rd respondent is the child born out of their wedlock. Annexure AI is the copy of the FIR, Annexure A2 is the affidavit

sworn in by the 2nd respondent and Annexure A3 is the affidavit filed by the 2 nd respondent for and on behalf of the 3rd respondent.

4. Smt.Reeha Khader, learned counsel appearing for

respondent Nos.2 and 3 submitted that the entire issues between the petitioner and respondent Nos.2 and 3 have been amicably settled and now they are living together.

5. Learned Public Prosecutor also supported the averments in Annexures A2 and A3 affidavits.

6. Annexure A2 affidavit sworn in by the defacto

complainant and also Annexure A3 affidavit filed for and on behalf of the 3rd respondent would specifically state that entire matrimonial issue between the petitioner and respondents 2 and 3 have been amicably settled and they have no further grievance and have no objection in quashing the entire proceedings in Annexure-A1 FIR. It is further stated that the complaint happened to be filed due to some misunderstanding between them.

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. Since the parties have already settled the matter

amicably, there is no purpose in continuing the proceedings. No public interest is involved and the issue is purely private in nature. So there is no impediment in quashing the proceedings

against the petitioner and further continuance of the proceedings against the petitioner 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 in Annexure-A1 FIR in crime No.952/2020 of Thamarassery Police Station. It is ordered accordingly.

Crl.M.C. stands allowed. Sd/- M.R.ANITHA shg JUDGE APPENDIX OF CRL.MC 5470/2020 PETITIONER ANNEXURE ANNEXURE A1 THE TRUE COPY OF THE FIR IN CRIME NO.952/2020 OF THAMARASSERY POLICE STATION PENDING BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT, THAMARASSERY. ANNEXURE A2 THE AFFIDAVIT SWORN BY THE 2ND RESPONDENT. ANNEXURE A3 THE AFFIDAVIT SWORN BY 2ND RESPONDENT FOR AND ON BEHALF OF 3RD RESPONDENT MINOR.

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