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Akbar, vs State of Kerala,

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Court : Kerala

Decided On : Feb-28-2019

Judge : Honourable Mr. Justice Raja Vijayaraghavan V

Appeal No. : Crl.MC/954/2019

Appellant : AKBAR,

Respondent : State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V THURSDAY, THE 28TH DAY OF FEBRUARY 2019 / 9TH PHALGUNA, 1940 IN CC NO.75/2018 OF THE JUDICIAL MAGISTRATE OF FIRST CLASS -I, PONNANI CRIME NO. 366/2017 OF PONNANI POLICE STATION, MALAPPURAM DISTRICT PETITIONERS/ACCUSED: 1 AKBAR, AGED 32 YEARS, S/O ABOOBACKER, PUZHAKKALATH HOUSE, 2 ABOOBACKER, AGED 60 YEARS, S/O. IBRAHIM, PUZHAKKALATH HOUSE, 3 NAZEERA, AGED 32 YEARS, W/O. ABOOBACKER, PUZHAKKALATH HOUSE, BY ADVS. SRI.K.J.SAJI ISAAC DR.ELIZABETH VARKEY SRI.JITHIN SAJI ISAAC RESPONDENTS/STATE & COMPLAINANT: 1 STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,

ERNAKULAM 682 031. 2 ANSHADA, AGED 26 YEARS, W/O. AKBAR, PUZHAKKALATH HOUSE, BY ADV. SRI.SUNIL JACOB JOSE BY SR. PUBLIC PROSECUTOR SRI. AMJAD ALI THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28.02.2019, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

This petition is filed under Section 482 of the Cr.P.C.

2. The 2nd respondent is the de facto complainant in C.C.No.

75 of 2018 on the file of the Judicial Magistrate of First Class, Ponnani. The 1st petitioner is the husband of the 2nd respondent and petitioners 2 and 3 are his near relatives. They are being proceeded against for having committed offence punishable under Sections 341, 323, 324, 498A, 406, 506(1), 308 & 354 r/w. Section 34 of the IPC.

3. This petition is filed with a prayer to quash the proceedings

on the ground of settlement of all disputes. The 2nd respondent has filed an affidavit stating that she does not wish to continue with the prosecution proceedings against the petitioners.

4. The learned Public Prosecutor has obtained instructions. He

submitted that the statement of the 2 nd respondent has been recorded and the State has no objection in terminating the proceedings as it involves no public interest.

5. I have considered the submissions advanced and have perused the materials on record.

6. In Gian Singh v. State of Punjab [(2012) 10 SCC 303]

and in Narinder Singh v. State of Punjab [(2014) 6 SCC 466], the Apex Court has laid down that in appropriate cases, the High Court can take note of the amicable

resolution of disputes between the victim and the wrongdoer to put an end to the criminal proceedings. Further in Jitendra Raghuvanshi & Others v. Babita Raghuvanshi & Another [(2013) 4 SCC 58], it was observed that it is the duty of the courts to encourage genuine settlements of matrimonial disputes. If the parties ponder over their faults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law, the courts should not hesitate to exercise its powers under Section 482 of the Code. Permitting such proceedings to continue would be nothing, but an abuse of process of court. The interest of justice also require that the proceedings be quashed.

7. Having considered all the relevant circumstances, I am of the considered view that this Court will be well justified in invoking its extraordinary powers under Section 482 of the Code to quash the proceedings. In the result, this petition will stand allowed. Annexure-A final

report and all proceedings pursuant thereto against the petitioners now pending as C.C.No.75 of 2018 on the file of the Judicial First Class Magistrate Court, Ponnani are quashed.

SD/- RAJA VIJAYARAGHAVAN V., JUDGE avs //TRUE COPY// P.A. TO JUDGE APPENDIX PETITIONER'S/S EXHIBITS: ANNEXURE A TRUE COPY OF THE FINAL REPORT SUBMITTED TO THE JUDICIAL 1ST CLASS MAGISTRATE COURT PONNANI IN C.C NO.75 OF 2018. ANNEXURE B COPY OF THE AFFIDAVIT OF DEFACTO COMPLAINANT. RESPONDENT'S/S EXHIBITS: NIL avs //TRUE COPY// P.A TO JUDGE

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