

Syamkumar vs State of Kerala

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Court : Kerala

Decided On : Oct-30-2019

Judge : Honourable Mr. Justice Alexander Thomas

Appeal No. : Crl.MC/2253/2019

Appellant : Syamkumar

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS
WEDNESDAY, THE 30TH DAY OF OCTOBER 2019 / 8TH KARTHIKA,
1941 AGAINST THE ORDER/JUDGMENT IN OP 741/2016 OF FAMILY
COURT, ATTINGAL AGAINST THE ORDER/JUDGMENT IN CC
2127/2013 OF JUDICIAL MAGISTRATE OF FIRST CLASS -I,
ATTINGAL CRIME NO.1033/2013 OF Attingal Police Station,
Thiruvananthapuram PETITIONER/S: 1 SYAMKUMAR, AGED 35
YEARS S/O. SASIDHARAN, VALIYAVILA VEEDU, VANCHIYOOR P.O,
ALAMCODE, THIRUVANANTHAPURAM. 2 SALINI, AGED 33 YEARS
D/O. SASIDHARAN, VALIYAVILA VEEDU, VANCHIYOOR P.O,
ALAMCODE, THIRUVANANTHAPURAM. BY ADVS.

SRI.R.MURALEEKRISHNAN SMT.T.M.RESHMY RESPONDENT/S: 1
STATE OF KERALA REP. BY THE PUBLIC PROSECUTOR, HIGH
COURT OF KERALA 2 MEENU, D/O. MAINKANTAN, AGED 29,
MAKAYIRAM VEEDU, CHERUNNIYOOR, CHERUNNIYOOR VILLAGE,
VARKALA TALUK, THIRUVANANTHAPURAM. R2 BY ADV.
V.S.NOWSHAD R2 BY ADV. SMT.SITHARA.S OTHER PRESENT:
SRI.E..C.BINEESH, PUBLIC PROSECUTOR THIS CRIMINAL MISC.
CASE HAVING COME UP FOR ADMISSION ON 30.10.2019, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING: ::2::

ALEXANDER THOMAS, J.

----- CrI.M.C.No.2253 Of 2019
----- Dated this the 30th day of October, 2019.

ORDER

The petitioners herein are accused Nos.1 & 2 among the

2 accused in the impugned Anx-1 FIR in Crime No.1033/2013 of Attingal Police Station, Thiruvananthapuram District, registered for offences punishable under Secs.498A & 34 of the I.P.C, on the basis of the complaint of the 2 nd respondent-de facto complainant, which has led to the institution of Anx-A2 Final Report/Charge Sheet in C.C.No.2127/2013 on the file of the Judicial First Class

Magistrate Court-I, Attingal. The 1st petitioner and the 2nd respondent were spouses. The 2nd petitioner is the sister of the 1st petitioner. The prosecution allegation is that after the marriage of the abovesaid spouses, the petitioners have treated the de facto complainant with cruelty demanding more dowry. It is stated that now the entire disputes between the petitioners and the 2nd respondent-de facto complainant have been settled amicably and the spouses decided to separate and that the 2 nd respondent has sworn to Anx-3 affidavit before this Court, wherein it is stated that she has settled the entire disputes with the petitioners and

::3:: that she has no objection for quashment of the impugned criminal proceedings pending against the petitioners. It is in the light of these aspects that the petitioners have preferred the instant Crl.M.C. with the prayer to quash the impugned criminal proceedings against them.

2. In a catena of decisions, the Apex Court has held that,

in appropriate cases involving even non-compoundable offences, the High Court can quash prosecution by exercise of the powers under Sec.482 of the Cr.P.C., if the parties have really settled the whole dispute or if the continuance of the prosecution will not serve any purpose. Here, this Court finds a real case of settlement between the parties and it is also found that continuance of the prosecution in such a situation will not serve any purpose other than wasting the precious time of the court, when the case ultimately comes before the court. On a perusal of the petition and on a close scrutiny of the investigation materials on record and the

affidavit of settlement and taking into account the attendant facts

and circumstances of this case, this Court is of the considered opinion that the legal principles laid down by the Apex Court in the cases as in *Gian Singh v. State of Punjab* reported in 2013 (1) SCC

(Cri) 160 = (2012) 10 SCC 303 and *Narinder Singh and others v. :*4::

State of Punjab and anr., reported in (2014) 6 SCC 466, more particularly paragraph 29 thereof, could be applied in this case to consider the prayer for quashment.

3. Accordingly, it is ordered in the interest of justice that the impugned Anx-1 FIR in Crime No.1033/2013 of Attingal Police Station, Thiruvananthapuram District, which has led to the

institution of Anx-A2 Final Report/Charge Sheet in C.C.No.2127/2013 on the file of the Judicial First Class Magistrate Court-I, Attingal, and all further proceedings arising therefrom pending against the accused persons will stand quashed.

The petitioners will produce certified copies of this order

before the investigating officer concerned and the competent court below concerned for necessary information. The office of the Advocate General will forward copy of this order to the investigating officer concerned for information.

With these observations and directions, the above Criminal Miscellaneous Case stands finally disposed of. Sd/- ALEXANDER THOMAS, Judge. bkn/- ::5::
APPENDIX PETITIONER'S/S EXHIBITS: ANNEXURE A1 COPY OF FIR IN CRIME NO. 1033/2013 OF ATTINGAL POLICE STATION. ANNEXURE A2 COPY OF CHARGE SHEET IN CC NO. ANNEXURE A3 THE AFFIDAVIT DATED 19.3.2019 EXECUTED BY THE 2ND RESPONDENT.

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