

Gopalakrishnan Vs. State of Kerala

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Court : Kerala

Decided On : Apr-28-2015

Judge : Honourable Mr. Justice Anil K.Narendran

Appellant : Gopalakrishnan

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALAAT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN TUESDAY, THE 28TH DAY OF APRIL 2015 8TH VAISAKHA, 1937 CrI.MC.No. 6404 of 2014 () ----- CC7842013 of JUDICIAL FIRST CLASS MAGISTRATE COURT, KAYAMKULAM CRIME NO. 467/2012 OF KAYAMKULAM POLICE STATION , ALAPPUZHA PETITIONER(S)/ACCUSED 17: ----- 1. GOPALAKRISHNAN AGED 45 YEARS S/O.VELAYUDHAN, RESIDING AT VALLATHU HOUSE PERINGALA VILLAGE, NADAKKAVU MURI, KAYAMKULAM ALAPPUZHA DISTRICT.

2. VISHNU AGED 26 YEARS S/O.BHARGAVAN, RESIDING AT VISHNU BHAVANAM PATHIYOOR VILLAGE, KARTHIKAPPALLY TALUK ALAPPUZHA DISTRICT.

3. AJAYAN AGED 35 YEARS S/O.NATARAJAN CHETTIYAR RESIDING AT PUTHENVEETIL KIZHAKATHIL PERINGALA VILLAGE, NADAKKAVU MURI,

KAYAMKULAM ALAPPUZHA DISTRICT.

4. VIJAYAN AGED33YEARS S/O.NATARAJAN CHETTIYAR RESIDING AT PUTHENVEETIL KIZHAKATHIL PERINGALA VILLAGE, NADAKKAVU MURI, KAYAMKULAM ALAPPUZHA DISTRICT.

5. JAGADAPPAN @ UNNI AGED49YEARS S/O.PRABHAKARAN, RESIDING ATASWATHY BHAVANAM PERINGALA VILLAGE, NADAKKAVU MURI, KAYAMKULAM ALAPPUZHA DISTRICT.

6. SANTHOSH AGED40YEARS S/O.GOPI, RESIDING AT CHAKKOOR PADEETTATHIL HOUSE PERINGALA VILLAGE, NADAKKAVU MURI, KAYAMKULAM ALAPPUZHA DISTRICT.

7. SADASIVAN AGED47YEARS S/O.KOCHAYYAPPAN RESIDING AT CHIRAYIL PADEETHTATHIL HOUSE PERINGALA VILLAGE, NADAKKAVU MURI, KAYAMKULAM ALAPPUZHA DISTRICT. BY ADV. SRI.M.G.SREEJITH Crl.MC.No. 6404 of 2014 () RESPONDENT(S)/STATE AND DEFACTO COMPLAINANT: ----- 1. STATEOF KERALA REPRESENTED BY SUB INSPECTOR OF POLICE KAYAMKULAM POLICE STATION (INVESTIGATING OFFICER IN CRIME NO.467/2012 OF KAYAMKULAM POLICE STATION) ERNAKULAM, REPRESENTED BY PUBLIC PROSECUTOR HIGH COURT OF KERALA, ERNAKULAM, COCHIN-682031.

2. LEELAMMA, AGED57YEARS W/O.VASAVAN RESIDING AT THATTAVAZHI PUTHENPURAYKKAL HOUSE PATHIYOOR VILLAGE, KAYAMKULAM ALAPPUZHA DISTRICT-690572. R2 BY ADV. SRI.C.R.SANISH R1 BY PUBLIC PROSECUTOR SRI ABHIJETT LESSLIE THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON2804-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: APPENDIX IN CRL.M.C.NO.6404/14 PETITIONER'S ANNEXURES: ANNEXURE A1: CERTIFIED COPY OF THE FIRST INFORMATION REPORT DT.8.4.12 IN CRIME NO.467/12 OF KAYAMKULAM POLICE STATION. ANNEXURE A2: AFFIDAVIT SWORN AND SIGNED BY THE2D RESPONDENT/DEFACTO COMPLAINANT IN CRIME

NO.467/12 OF KAYAMKULAM POLICE STATION STATING THAT THE PETITIONERS/ACCUSED1TO7ARE NOT INVOLVED IN THE INCIDENT AND THEIR NAMES ARE HAPPENED TO BE INLUCLUDED DUE TO MISTAKE OF IDENTITY AND MISTAKE OF FACTS. ANNEXURE A3: CERTIFIED COPY OF FINAL CHARGE DATED305.12 SUBMITTED BY THE FIRST RESPONDENT AFTER COMPLETING INVESTIGATION IN CRIME NO.467/12 OF KAYAMKULAM POLICE STATION. RESPONDENTS' ANNEXURES: NIL TRUE COPY P.S.TO JUDGE dsn ANIL K.NARENDRAN, J
----- CrI.M.C.No.6404 Of 2015
----- DATED THIS THE28h DAY OF APRIL, 2015

ORDER

The petitioners are arrayed as accused 1 to 7 in the final charge in Crime No.467/12 of Kayamkulam Police Station, now pending before the Judicial First Class Magistrate Court, Kayamkulam as C.C.No.784/2013, alleging offences punishable under Sections 143, 147, 277, 451, 294(b), 427 and 506(i) IPC, based on a private complaint filed by the second respondent. Now, it is submitted on behalf of the petitioners that the entire disputes between the petitioners and the second respondent have already been settled and the second respondent has also sworn to an affidavit which is produced along with CrI.M.C. as Annexure A2. Therefore, the prayer in this CrI.M.C. is to quash the entire proceedings in C.C.No.784/2013 on the file of the Judicial First Class Magistrate Court, Kayamkulam.

2. Heard the learned counsel for petitioners, learned Public Prosecutor appearing for the first respondent and the learned counsel for the second respondent. CrI.M.C.No.6404/14 -2- 3. In Gian Singh v. State of Punjab (2012 (10) SCC303, the Apex Court held that, the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a Criminal Court for compounding the offences under Section 320 of the Code of Criminal Procedure. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz.; (i) to secure the ends of justice or (ii) to

prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or FIR may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private Crl.M.C.No.6404/14 -3- in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc.; cannot provide for any basis for quashing criminal proceedings involving such offences. But criminal cases having overwhelmingly and predominately civil flavour stand on a different footing for the purpose of quashing, particularly offences arising from commercial, financial, mercantile, civil partnership or such like transactions or the offences arising out of matrimonial relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In these categories of cases, High Court may quash criminal proceedings, if in its view, because of the compromise between the offender and the victim, the possibility of a conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and Crl.M.C.No.6404/14 -4- complete settlement and compromise with the victim. In other words, the High Court may consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceedings or continuation of criminal proceedings would tantamount to abuse of process of law despite settlement and compromise between the victim and wrong-doer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question is in affirmative the High Court shall be well within its jurisdiction to quash the criminal proceedings.

4. The allegation against the petitioners is that they have committed offences punishable under Sections 143, 147, 277, 451, 294(b), 427 and 506(i) IPC.

5. Now as submitted by both sides, the entire dispute between the petitioners and the second respondent has already been settled amicably and the learned counsel for the second respondent has also stated that the second respondent does not want to prosecute the criminal case filed against the petitioners. The second respondent has also filed Annexure A2 affidavit Crl.M.C.No.6404/14 -5- before this Court in this regard.

6. In such circumstances, this is a fit case in which the proceedings pending against the petitioners in C.C.No. 784/2013 on the file of the Judicial First Class Magistrate Court, Kayamkulam, can be quashed by this Court invoking the powers under Section 482 of the Code of Criminal Procedure, in the light of the principles laid down by the Apex Court in Gian Sing's case (supra). In the result, this Crl.M.C. is allowed and the entire proceedings in C.C. No.784/2013 on the file of the Judicial First Class Magistrate Court, Kayamkulam against the petitioners is quashed. Sd/- ANIL K.NARENDRAN, JUDGE dsn

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