

Sujil Vs. State of Kerala

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Court : Kerala

Decided On : Apr-28-2015

Judge : Honourable Mr. Justice Anil K.Narendran

Appellant : Sujil

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN TUESDAY, THE 28TH DAY OF APRIL 2015 VAISAKHA, 1937 CrI.MC.No. 2619 of 2015 ()
----- CC7432012 of J.M.F.C., TALIPARAMBA CRIME NO.1151/2011 OF THALIPARAMBA POLICE STATION -----
PETITIONERS/ACCUSED 13 :- ----- 1. SUJIL C., CHERAKARAN, CHERA, MORAZHA AMSOM DESOM, KANNUR DISTRICT.

2. SANOJ.A.V., EDAKAPURAM, P O CHERUKUNNU, KANNUR.

3. ANOOP, KEEZHARA, P O KEEZHARA KANNUR DIST. BY ADV. SMT.VIDHYA. A.C RESPONDENT/COMPLAINANT & STATE :-
----- 1. STATE OF KERALA THROUGH THE STATION HOUSE OFFICER TALIPARAMBA POLICE STATION REP BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA ERNAKULAM-682031 2. RAJEESH, S/O.KUNHIRAMAN, ODAMVALAPPIL HOUSE, CHERA MORAZHA, KANNUR

DIST-670331 3. RAJESH, S/O.KUNHIRAMAN, ODAMVALAPPIL HOUSE, CHERA MORAZHA, KANNUR DIST-670331 R2 & R3 BY ADV. SRI.A.C.VENUGOPAL R1 BY PUBLIC PROSECUTOR SRI.A.J.JOSE AEDAIDI THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 2804-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: jvt Crl.MC.No. 2619 of 2015 () ----- APPENDIX PETITIONER(S)' EXHIBITS :- ----- ANNEXURE1 TRUE COPY OF THE FIR IN CRIME NO11512011 OF TALIPARAMBA POLICE STATION. RESPONDENT(S)' EXHIBITS :- NIL ----- //TRUE COPY// P.A. TO JUDGE ANIL K. NARENDRAN, J.

----- Crl.M.C. No.2619 of 2015 -----

Dated this the 28th day of April 2015

ORDER

Petitioners are accused Nos.1 to 3 in Crime No.1151 of 2011 of Taliparamba Police Station for the offences punishable under Sections 341, 323 and 324 r/w 34 of Indian Penal Code, based on a private complaint filed by the second respondent, which is pending as C.C.No.743 of 2012 on the file of Judicial First Class Magistrate Court, Taliparamba. Now, it is submitted on behalf of the petitioners that the entire disputes between the petitioners and second and third respondents have already been settled and the second and third respondents have also sworn affidavits to that effect in this Crl.M.C. Therefore, the prayer in this Crl.M.C. is to quash the entire proceedings as against them in Crime No.1151 of 2011 of Taliparamba Police Station, which is pending as C.C.No.743 of 2012 on the file of Judicial First Class Magistrate Court, Taliparamba.

2. Heard, the learned counsel for petitioners, learned Public Prosecutor appearing for the first respondent and the learned counsel appearing for the second and third respondents. Crl.M.C. No.2619 of 2015 -:

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 accordance with the guidelines 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 in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the Crl.M.C. No.2619 of 2015 -:

3. :- 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 predominatingly 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 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 Crl.M.C. No.2619 of 2015 -:

4. :- 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 the offences punishable under Sections 341, 323 and 324 r/w 34 of Indian Penal Code.

5. Now as submitted by both sides, the entire dispute between the petitioners and the second and third respondents has already been settled amicably and the learned counsel for the second and third respondents has also stated that they do not want to prosecute the criminal case filed against the petitioners. The second and third respondents have also filed affidavits 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.743 of 2012 on the file of Judicial First Class Magistrate Court, Taliparamba can be quashed by this Court invoking the powers under Section 482 of the Code of Criminal Procedure, in the light CrI.M.C. No.2619 of 2015 -:

5. :- of the principles laid down by the Apex Court in Gian Sing's case (supra). In the result, this CrI.M.C. is allowed and the entire proceedings as against the petitioners in Crime No.1151 of 2011 of Taliparamba Police Station, which is pending as C.C.No.743 of 2012 on the file of Judicial First Class Magistrate Court, Taliparamba are quashed. Sd/- ANIL K. NARENDRAN JUDGE Jvt

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