
(2014) 05 KL CK 0012
In the High Court Of Kerala
Case No : Crl. MC. No. 2523 of 2014

Sivakumar and Bhageerathi	Vs	APPELLANT
State of Kerala and Rema		RESPONDENT

Date of Decision : 13-05-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Hindu Marriage Act, 1955 — Section 13B
Penal Code, 1860 (IPC) — Section 34, 498A

Citation : (2014) 05 KL CK 0012

Hon'ble Judges : Anil K. Narendran, J

Bench : Single Bench

Advocate : M.L. Suresh Kumar, Advocate for the Appellant; Lilly Leslie, Public Prosecutor for R1 and Sri A.R. Gangadas for R2, Advocate for the Respondent

Final Decision : Allowed

Judgement

Anil K. Narendran, J.—The petitioners are accused Nos.1 and 2 in C.C.No.537 of 2011 on the file of the Judicial First Class Magistrate Court-II, Kollam alleging offence punishable u/s 498A and 34 of IPC. It is submitted by the petitioners that now the entire dispute with the second respondent has already been settled and a petition for divorce on mutual consent has already been filed before the concerned court u/s 13B of Hindu Marriage Act. The second respondent has also sworn Annexure-B affidavit stating that the dispute between the parties have already been settled and she does not have any intention to prosecute the criminal case.

2. Heard the learned counsel for the petitioners, the learned counsel appearing for the second respondent and also the learned Public Prosecutor.

3. In Gian Singh Vs. State of Punjab and Another, , the Apex Court held that 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 category 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 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 made against the petitioners is that they have committed offence punishable u/s 498A and 34 of IPC. The 2nd respondent, who is the defacto complainant in the aforesaid criminal case has already filed Annexure-B affidavit before this Court stating that the entire dispute between the parties have been settled and she does not want to prosecute the criminal case which is the subject matter in this CrI.M.C.

5. In such circumstances this is a fit case in which the proceedings in C.C.No.537 of 2011 on the file of the Judicial First Class Magistrate Court-II, Kollam arising out of Crime No. 477 of 2011 of Eravipuram Police Station can be quashed by this Court invoking the powers u/s 482 of Cr.P.C. following the principle laid down by the Apex Court in Gian Singh's case (supra).

In the result, this CrI.M.C. is allowed quashing the proceedings pending against the petitioners in C.C.No.537 of 2011 on the file of the Judicial First Class Magistrate Court-II, Kollam.