

Ramees Vs. the State of Kerala

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Court : Kerala

Decided On : Jul-16-2013

Judge : Honourable Mr.Justice V.K.Mohanan

Appellant : Ramees

Respondent : The State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE V.K.MOHANAN TUESDAY, THE 16TH DAY OF JULY 2013 25TH ASHADHA, 1935 CrI.MC.No. 2902 of 2013 () ----- CC. NO.1431/2011 AS SPLIT UP FROM CC. NO.844/2008 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-I, HOSDRUG. CRIME NO. 124/2008 OF HOSDURG POLICE STATION, KASARAGOD DIST. PETITIONERS/ACCUSED 2 AND 3.: ----- 1. RAMEES, AGED 2 YEARS, S/O.ANDUMAI, RESIDING AT DAYAM MANZIL, ATHINHAL, AJANOR VILLAGE, HOSDURG TALUK, KASARAGOD DISTRICT. 2. FAISAL, AGED 3 YEARS, S/O.UMBAL, RESIDING AT MATTATHIL HOUSE, NOW RESIDING AT ATHINHAL, AJANOR VILLAGE, HOSDURG TALUK, KASARAGOD DISTRICT. BY ADV. SRI.T.MADHU. RESPONDENT/STATE: ----- THE STATE OF KERALA, THROUGH THE STATION HOUSE OFFICER, HOSDURG POLICE STATION, KASARAGOD DISTRICT, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,

ERNAKULAM-682 031. BY PUBLIC PROSECUTOR SMT.S. HYMA. THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 16-07-2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: rs. CrI.MC.No. 2902 of 2013 APPENDIX PETITIONER'S ANNEXURES:- ANNEXURE-A1: COPY OF THE FIR IN CRIME NO.124/2008 OF HOSDURG POLICE STATION. ANNEXURE-A2: COPY OF THE FINAL REPORT IN CRIME NO.124/2008 OF HOSDURG POLICE STATION. ANNEXURE-A3: COPY OF THE JUDGMENT 17 12.2011 IN C.C.NO.844/2008 ON THE FILE OF THE LEARNED JUDICIAL FIRST CLASS MAGISTRATE'S COURT-1, HOSDURG. ANNEXURE-A4: COPY OF THE MEMO OF EVIDENCE IN CRIME NO.124/2008 OF HOSDURG POLICE STATION. RESPONDENT'S EXHIBITS:- NIL. //TRUE COPY// P.A. TO JUDGE. rs. V.K.MOHANAN, J.

----- CrI.M.C.No. 2902 of 2013
----- Dated this the 16th day of July, 2013

ORDER

The petitioners are the accused Nos.2 and 3 in Crime No.124/2008 of Hosdurg Police Station. According to the petitioners the other accused in the above crime faced the trial in C.C.No.844/2008 and as per Annexure-A3 judgment the learned Magistrate acquitted them. Thus according to the petitioner they are also entitled to get benefit of the said judgment and accordingly preferred the above M.C with a prayer to quash Annexure-A2 final report and all further proceedings in Crime No.124/2008 of Hosdurg Police Station and in C.C.No.1431/2011 on the file of the Judicial First Class Magistrate's Court-I, Hosdurg.

2. Heard the counsel for the petitioner and the learned Public Prosecutor.

3. On 18/2/2008 at 17.20 hours, accused Nos. 1 to 8 who are IUML workers and another 20 identifiable persons formed an unlawful assembly armed with deadly weapons and committed rioting. In prosecution of their common object they hurled stones at the procession conducted under the banner of Indian National League, Uduma Mandalam. When the above CrI.M.C.No. 2902 o

2. procession reached before the Mosque at Athinhal, accused hurled stones at the procession and consequent to that CWs 1 and 2 who were on law and order duty at that place sustained injury. In addition to the above, CWs1 and 2 were deterred from discharging their official duty. Thus the accused are alleged to have committed the offences punishable under Sections 143, 147, 148, 324 r/w Section 149 IPC.

4. In the light of the submission made by the counsel for the petitioners I have perused Annexure-A3 judgment in detail. In paragraph 7 of the judgment the learned Magistrate has found that PW1 has stated that he is unable to say about the person who hurled stone at him and he further stated that name of the accused No.7 was mistakenly shown as Nasar instead of Shajahan. In paragraph 7 of the judgment it is concluded that evidence of PW1 would go to show that he has no idea about the names of accused arrested from the spot.

5. The learned Magistrate has further found in paragraph 10 that though it is a fact that PW1 and PW2 while discharging their official duty sustained injuries, but there is no evidence to show that accused are the persons behind the said act. Accordingly concluded that the prosecution has not succeeded in proving the offences against the accused. CrI.M.C.No. 2902 o

3. 6. In the light of the above discussion and finding of the learned Magistrate who undertook the trial against the other accused, according to me no purpose would be served in sending the petitioners to face the trial. In the light of the specific finding of the learned Magistrate that contained in Annexure-A3, I am of the view that the substratum of the prosecution case is gone and even the official witnesses failed to adduce evidence as to who inflicted injuries on them. Therefore even if the petitioners are directed to face the prosecution, there would not be any fruitful turnout. In the result this M.C is disposed of quashing Annexure-A2 final report and all further proceedings pending against the petitioner in Crime No.124/2008 of Hosdurg Police Station and in C.C.No.1431/2011 on the file of the Judicial First Class Magistrate's Court-I, Hosdurg. V.K.MOHANAN, JUDGE AS