

Hareesh Kumar C.K. Vs. State of Kerala

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Court : Kerala

Decided On : Jan-28-2014

Judge : Honourable Mr. Justice P.D.Rajan

Appellant : Hareesh Kumar C.K.

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE
HONOURABLE MR. JUSTICE P.D.RAJAN TUESDAY, THE 28TH DAY OF
JANUARY 2014 8TH MAGHA, 1935 CrI.MC.No. 1564 of 2012 ()
----- CC. NO.188/2011 OF JUDICIAL FIRST CLASS
MAGISTRATE COURT-I, KOLLAM. PETITIONERS/ACCUSED 1 TO 7 9 TO 17
19 TO 21 24 TO 63 65 TO 69

----- 1.
HAREESH KUMAR C.K., AGED 43 YEARS, S/O. CHELLAPPAN CHETTIYAR,
"THIRUVATHIRA", PERUR CHERI, T.K.M.C. P.O, KOTTAMKARA VILLAGE,
KOLLAM TALUK - 691 005.

2. RAMASWAMY CHETTIYAR, AGED 58 YEARS, PERUR CHERI, T.K.M.C.P.O., -
DO-

3. R. BEENA, AGED 30 YEARS, W/O. HARIS KUMAR.C.K, THIRUVATHIRA,
PERUR CHERI, T.K.M.C.P.O, -DO-

4. SHIKHAMANI, AGED55YEARS, "SAPARYA", PERUR CHERI, T.K.M.C.P.O, -DO-
5. BINDHUJA RAJEEV, AGED30YEARS, W/O. RAJEEV, -DO-
6. SULOJANA, AGED55YEARS, THOTTUVILA VEEDU, PERUR CHERI, T.K.M.C.P.O,-DO-
7. S. VISHWANATHAN, AGED70YEARS, -DO-
8. P.MINI, AGED32YEARS, -DO-
9. P.SANTHOSH KUMAR, AGED30YEARS, CHENNAKATTU VEETIL, PERUR CHERI, T.K.M.C.P.O, -DO-
10. B. BINDU, AGED25YEARS, W/O. SANTHOSH KUMAR, -DO-
11. KAVITHA, AGED25YEARS, -DO- CrI.MC.No. 1564 of 2012
12. SAROJINI, AGED60YEARS, -DO-
13. SOMAN, AGED65YEARS, -DO-
14. B. SURESH BABU, AGED50YEARS, BHARATHA MANDIRAM, PERUR CHERI, T.K.M.C. P.O,-DO-
15. SUDHARMA, AGED45YEARS, W/O. B. SURESH BABU, -DO-
16. BHARATHAN, AGED65YEARS, -DO-
17. JAGASYA, AGED30YEARS, W/O. B. SANIL KUMAR, KUREEPUZHA VEETIL, -DO-
18. RAMANI, AGED55YEARS, -DO-
19. B. ANIL KUMAR, AGED38YEARS, -DO-
20. T.SURESH, AGED40YEARS, -DO-

21. N. SATHEESAN, AGED45YEARS, VAISAKHAM, -DO-
22. R. SANTHA KUMARI, AGED40YEARS, -DO-
23. C. BABU, AGED40YEARS, THONDAPPURATH VEETIL, -DO-
24. GEETHA, AGED35YEARS, W/O.C. BABU, -DO-
25. BINDHU, AGED30YERS, -DO-
26. SHYAMALA, AGED30YEARS, -DO-
27. N. SASIDHARAN, AGED49YEARS, -DO- CrI.MC.No. 1564 of 2012
28. SWAYAMPBABHA, AGED43YEARS, W/O.N. SASIDHARAN, -DO-
29. KOCHANIYAN, AGED32YEARS, -DO-
30. MANOHARAN, AGED35YEARS, -DO-
31. OMANAKUTTAN, AGED40YEARS, -DO-
32. T.RAJU, AGED38YEARS, -DO-
33. SHARMILA, AGED30YEARS, W/PO.T. RAJU, -DO-
34. GEETHA MOHAN, AGED35YEARS, THONDAPPURATH HOUSE, -DO-
35. RAMANI, AGED45YEARS, THONDAPPURATH KIZHAKKATHIL, -DO-
36. G. SAHADEVAN, AGED52YEARS, -DO-
37. N. LEENAKUMARI, AGED35YEARS, DHEERAJ BHAVAN, -DO-
38. RAVINDRAN, AGED55YEARS, CHENNAKATTU VADAKATHIL, -DO-
39. PRASANNA KUMARI, AGED50YEARS, W/O. RAVINDRAN, -DO-
40. SHOBANA, AGED40YEARS, MANICHERIL VEETIL, -DO-

41. SUSHAMA, AGED45YEARS, -DO-
42. RAJESHWARI, AGED35YEARS, -DO-
43. SHIJU, AGED30YEARS, SARASWATHI MANDIRAM, -DO-
44. SIVADASAN, AGED60YEARS, JAGATHA BHAWAN, -DO- CrI.MC.No. 1564 of 2012
45. JAGATHAMMA, AGED53YEARS, JAGATHA BHAVAN, -DO-
46. MINI RAFI, AGED40YEARS, D/O. JAGATHAMMA, JAGATHA BHAVAN, -DO-
47. PRASANNA KUMARI, AGED45YEARS, KARTHIKA, -DO-
48. V.ASHOKAN, AGED40YEARS, AKHIL NIVAS, -DO-
49. S. AMBIKA, AGED35YEARS, W/O. V. ASHOKAN, -DO-
50. SAAB JIHAN, AGED40YEARS, SAFNA NIVAS, -DO-
51. SAFEELA, AGED35YEARS, W/O. SAB JIHAN, SAFNA NIVAS, -DO-
52. LALITHA, AGED54YEARS, PLAVIA VEETIL, -DO-
53. JAYAPRAKASH, S/O. LALITHA, AGED35YEARS, -DO-
54. S. SURESH KUMAR, AGED38YEARS, SEEMA BHAVAN, -DO-
55. B. CHANDRABABU, AGED40YEARS, BHASKARALAYAM, -DO-
56. ANITHA, AGED35YEARS, W/O. CHANDRABABU, -DO-
57. G. RAJEEV, AGED39YEAFRS, THADAVILA PUTHANVEETIL, -DO-
58. RAMACHANDRAN, AGED38YEARS, KIZHAKEVILA THEKETHIL THATTARKONAM. P.O,-DO-
59. K. BABURAJAN, AGED40YEARS, KALLUMPURATH VEETIL, -DO-

60. B. ANIL KUMAR, AGED39YEARS, JYOTHIR BHAVAN, -DO-

61. SANTHOSH KUMAR, AGED35YEARS, KULATHIL KARAPADINJATTATHIL, -DO- CrI.MC.No. 1564 of 2012

62. B. AJITH KUMAR, AGED30YEARS, VAYALIL VEETIL, -DO-

63. T.CHAKRAPANI, AGED58YEARS, AARSHAM, -DO- BY ADV. SRI.BLAZE K.JOSE. RESPONDENT/COMPLAINANT: -----

1. STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

2. SHAJAHAN, AGED40YEARS, S/O. HANEEFA, S.S. HOUSE, T.K.M.C. P.O., PERUR CHERI, KOTTAMKARA VILLAGE, KOLLAM TALUK - 691 005. R1 BY PUBLIC PROSECUTOR SMT.M.T. SHEEBA. R2 BY ADV. SRI.B.KRISHNA MANI. THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON2801-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: rs. CrI.MC.No. 1564 of 2012 APPENDIX PETITIONER'S ANNEXURES:- ANNEXURE1COPY OF THE COMPLAINT IN C.C. NO.188/2011 BEFORE THE JFMC-I, KOLLAM. RESPONDENT'S ANNEXURES:- NIL. //TRUE COPY// P.S.TO JUDGE rs. P.D.RAJAN, J CrI.M.C.No.1564 of 2012 Dated 28th January, 2014

ORDER

This petition is filed under Section 482 of Code of Criminal Procedure for quashing the proceedings in C.C.No.158 of 2011 of Judicial First Class Magistrate Court, Kollam which was filed under Section 143, 447, 427, 434, 500, 506(i) read with 149 IPC. Petitioners are accused 1 to 7, 9 to 17, 19 to 21, 24 to 63 and 65 to 69 in the above case pending before Judicial First Class Magistrate Court, Kollam. Petitioners contended that they were falsely implicated in a case alleging the aforesaid offences.

2. According to the second respondent, accused formed themselves into unlawful assembly and damaged the northern boundary wall and called obscene words against second respondent. There was a property dispute between the second

respondent and the accused for that O.S.No.236 of 2011 was filed Crl.m.c.1564 of 2012 2 in the Munsiff Court, Kollam and obtained an injunction. Subsequently in violation of that injunction order, the accused in the above case demolished the compound wall on 18.3.2007 and 2nd respondent obtained an order for police protection as per the direction in WP(C) No.15505 of 2007 on 24.5.2007.

3. Heard both sides. The second respondent filed the above complaint on the basis of the incident dated 4.6.2007. According to 2nd respondent, on 4.6.2007 at 6 pm, the accused formed an unlawful assembly at Madhava Pharmacy junction and committed the offences. In the circumstances, he filed Annexure I complaint before Judicial First Class Magistrate Court, Kollam. Hence petitioners contended that they are falsely implicated in this case and the jurisdiction of this court under Section 482 Cr.P.C may be invoked.

4. Learned Public Prosecutor and the second Crl.m.c.1564 of 2012 3 respondent strongly opposed the argument. Now the question that arises for consideration is whether this is a fit case for invoking the jurisdiction under Section 482 Cr.P.C. Apex Court in State of Haryana V. Bajanlal(1992 SC Crime 426) wherein it was held that where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused, the proceedings are liable to be quashed. The inherent powers of the High Court contemplated u/s 482 Cr.P.C has to be exercised only for the three purposes mentioned in the section. This power cannot be invoked naturally in a matter where it is covered by a specific provision of the code. Therefore it means that if the matter in question is not covered by any provision of the code, it comes into operation, for the three purposes mentioned in the section. Inherent jurisdiction to Crl.m.c.1564 of 2012 4 make such orders necessary to "give effect to any order" under this code or to prevent "abuse of the process" of any court or to secure "the ends of justice".

5. From the allegations, it is clear that several people of the locality were involved in the case. Prima facie case is made out against the petitioners. Further ingredient of the offence is a matter of evidence which is the duty of the Magistrate

concerned to enquire and find it out. Hence this is not a fit case to invoke the jurisdiction under Section 482 Cr.P.C and it is accordingly dismissed. P.D.RAJAN, JUDGE Igk

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