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Abdul Rahiman Vs. Rafeeque

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Court : Kerala

Decided On : May-16-2014

Judge : Honourable Mr. Justice a.Hariprasad

Appellant : Abdul Rahiman

Respondent : Rafeeque

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE A.HARIPRASAD FRIDAY, THE16H DAY OF MAY201426TH VAISAKHA, 1936 Crl.MC.No. 2605 of 2014 () ---------- AGAINST

ORDER
IN CC23322012 of J.M.F.C.I,KASARAGOD IN CRIME NO. 19/2007 OF ADHUR POLICE STATION , KASARGOD PETITIONERS/ACCUSED4TO8 ---------- 1. ABDUL RAHIMAN AGED30YEARS S/O. MUHAMMED KUNHI, RESIDING AT POVVAL MULIYAR VILLAGE, KASARAGOD TALUK, KASARAGOD DISTRICT.

2. NOUFAL, AGED29YEARS S/O. MUHAMMED KUNHI, RESIDING AT POVVAL MULIYAR VILLAGE, KASARAGOD TALUK, KASARAGOD DISTRICT.

3. IJAS AHAMMED, AGED25YEARS S/O. MUSTHAFFA, RESIDING AT COLOMBO HOUSE, POVVAL MULIYAR VILLAGE, KASARAGOD TALUK,

KASARAGOD DISTRICT.

4. MUNEER AGED32YEARS S/O. ABDUL KHADER, RESIDING AT POVVAL, MULIYAR VILLAGE KASARAGOD TALUK, KASARAGOD DISTRICT.

5. MEHROOF, AGED27YEARS S/O. MUHAMMED, RESIDING AT CHALKKARA, POVVAL MULIYAR VILLAGE, KASARAGOD TALUK, KASARAGOD DISTRICT. BY ADVS.SRI.T.MADHU SMT.C.R.SARADAMANI RESPONDENT(S)/STATE AND DEFACTO COMPLAINANT: ---------- 1. RAFEEQUE, AGED30YEARS S/O. ABDULLA KUNHI, RESIDING AT POVVAL MULIYAR VILLAGE, KASARAGOD TALUK KASARAGOD DISTRICT-671542.

2. THE STATE OF KERALA THROUGH THE STATION HOUSE OFFICER ADHUR POLICE STATION REPRESENTED BY THE PUBLIC PROSECUTOR HIGH COURT OF KERALA, ERNAKULAM-682031. R1 BY ADV. SMT.G.SANGEETHA R2 BY PUBLIC PROSECUTOR SRI MADHU BEN THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON1605-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Crl.MC.No. 2605 of 2014 () ---------- APPENDIX PETITIONER(S)' EXHIBITS ---------- ANX.A1. THE TRUE CERTIFIED COPY OF THE FIR IN CRIME NO. 19/2007 OF ADHUR POLICE STATION. ANX.A2. THE TRUE CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO. 19/2007 OF ADHUR POLICE STATION. ANX.A3. THE TRUE CERTIFIED COPY OF THE

JUDGMENT
DATED510-2012 IN C.C. NO. 364/2007 ON THE FILE OF THE LEARNED JUDICIAL FIRST CLASS MAGISTRATE'S COURT-1, KASARAGOD. ANX.A4. THE AFFIDAVIT DATED85-2014 SWORN IN BY THE1T RESPONDENT. RESPONDENT(S)' EXHIBITS: NIL ---------- TRUE COPY P.A TO JUDGE ami/ A.HARIPRASAD, J.

---------- Crl.M.C.No.2605 of 2014 ---------- Dated this the 16th day of May, 2014.

ORDER

The petitioners are accused nos.4 to 8 in Crime No.19/07 of Adhur Police Station, Kasaragod district, now pending in C.C.No.2332/12 on the file of the court of Judicial First Class Magistrate-I, Kasaragod. They are charged with offences under sections 143, 147, 341, 323, 506(i) r/w 149 IPC. The accused nos.1 to 3 and 9 were tried by the learned Magistrate in C.C.No.364/07 and the judgment in that case is produced as Annexure A3. The learned counsel for the petitioners contended that on going through Annexure A3, it can be seen that none of the witnesses could establish the prosecution case that the accused persons committed the alleged acts. The learned Magistrate has observed in Annexure A3 judgment that the de facto complainant-PW1 has not given any evidence regarding the overtacts allegedly done by any of the accused other than accused nos.1 to 3 Crl.M.C.No.2605 of 2014 2 and 9. Considering the entire evidence on record, the learned Magistrate acquitted the accused who stood the trial. The learned counsel for the petitioners therefore would contend that the entire prosecution case unfolded in Annexure A3 judgment would show that the prosecution case has no foundation and the trial of these petitioners will be an unwanted exercise. The learned counsel appearing for the de facto complainant and the learned counsel for the petitioners submitted that the matter has been settled. In Annexure A4 affidavit filed by the de facto complainant, it is stated that he has no subsisting grievance against the petitioners. Considering the entire matters, I find that, this is a fit case wherein jurisdiction under section 482 Cr.P.C. can be invoked to quash the final report. In the result, this petition is allowed and Annexure A2 final report in Crime No.19/07 of Adhur Police Station, is hereby quashed. A.HARIPRASAD, Judge ami/

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