

Rinil Vs. State of Kerala

Rinil Vs. State of Kerala

SooperKanoon Citation : sooperkanoon.com/1142734

Court : Kerala

Decided On : May-29-2014

Judge : Honourable Mr. Justice K.Ramakrishnan

Appellant : Rinil

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN THURSDAY, THE 29^H DAY OF MAY 2014 8TH JYAISHTA, 1936 CrI.MC.No. 2159 of 2014 ----- C.C NO.194/2009 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, ALATHUR CRIME NO. 215/2009 OF VADAKKENCHERY POLICE STATION , PALAKKAD ----- PETITIONER(S)/ACCUSED: -----

1. RINIL, AGED 25 YEARS, S/O.SETHUMADHAVAN, MUDHIYAMPOTTA HOUSE, KALAVAPADAM MOOLAMCODE, ALATHUR TALUK, PALAKKAD DISTRICT.

2. SUNIL, AGED 25 YEARS, S/O.KRISHNAN, MUDHIYAMPOTTA HOUSE, KALAVAPADAM MOOLAMCODE, ALATHUR TALUK, PALAKKAD DISTRICT.

3. SAJAN, AGED 27 YEARS, S/O.KUNJU, KUNNAMKADU HOUSE, MOOLAMCODE, ALATHUR TALUK, PALAKKAD DISTRICT.

4. SITHU, AGED25YEARS, S/O.KERALA DASAN, SINDHURAM, KALAVAPADAM MOOLAMCODE, ALATHUR TALUK, PALAKKAD DISTRICT.

5. SRIJITH, AGED25YEARS, S/O.VASU, KUNNAMKADU HOUSE, MOOLAMCODE, ALATHUR TALUK, PALAKKAD DISTRICT.

6. SUJITH, AGED26YEARS, S/O.VASU, KUNNAMKADU HOUSE, MOOLAMCODE, ALATHUR TALUK, PALAKKAD DISTRICT. BY ADV. SRI.BABY MATHEW

RESPONDENT(S)/RESPONDENTS:
----- 1. STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM - 682 031.

2. SUB INSPECTOR OF POLICE, VADAKKENCHERY POLICE STATION, PALAKKAD DISTRICT, PIN680582.

3. K.V.MANOJ, AGED32YEARS, S/O.VELUMUTHU, KALAVAPADAM, MOOLAMCODE, ALATHUR TALUK, PALAKKAD DISTRICT - 678 541. R1 & R2 BY PUBLIC PROSECUTOR SRI.R.JITHESH R3 BY ADV. SRI.S.KRISHNA KUMAR (MANGALAM) THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON2905-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Msd. CrI.MC.No. 2159 of 2014 -----

APPENDIX ----- PETITIONER(S)' ANNEXURES: ANNEXURE I : TRUE COPY OF THE FIR DATED2604.2009 IN CRIME NO.215/2009 OF VADAKKENCHERY POLICE STATION. ANNEXURE II : TRUE COPY OF THE FINAL REPORT DATED1905.2009 IN CRIME NO.215/2009 OF VADAKKENCHERRY POLICE STATION. RESPONDENT(S)' ANNEXURES: NIL //TRUE COPY// P.A.TO JUDGE. Msd. K. Ramakrishnan, J.

===== CrI.M.C.No.2159 of 2014
===== Dated this, the 29th day of May, 2014.

ORDER

This is an application filed by the petitioners who are accused Nos.1 and 6 in C.C.No.194/2009 pending before Judicial First Class Magistrate Court, Alathur to quash the proceedings on the basis of settlement under 482 of Code of Criminal

Procedure.

2. It is alleged in the petition that petitioners are accused in C.C.No.194/2009 on the file of the Judicial First Class Magistrate Court, Alathur. The above case was originated on the basis of Crime No.215/2009 of Vadakkenchery Police Station which was registered on the basis of the statement given by the third respondent against the petitioners alleging commission of offences under Sections 143, 147, 148, 341, 294(b), 323, 324 read with Section 149 of Indian Penal Code. After investigation, final report was filed and the case was taken on file as C.C.No.194/2009 and pending before the Judicial First Class Magistrate Court, Alathur. In the meantime, the matter has been settled between the petitioners and the CrI.M.C.No.2159 of 2014 :

2. : third respondent. In fact, the petitioners and the third respondent are neighbours and the matter has been settled due to the intervention of mediators and well wishers of both parties and on account of the settlement, their relationship has been restored. No purpose will be served by proceeding with the case in view of the settlement. Since some of the offences are non-compoundable in nature, they have no other option except to approach this court seeking the following relief: "To pass an order to quash Annexure-II Final Report and all further proceedings against the petitioners/Accused in C C No.194/2009 on the files of Judicial First Class Magistrate Court, Alathur." 3. Third respondent appeared through Counsel and submitted that the matter has been settled between the parties and the third respondent has no grievance against the petitioners now and he does not want to prosecute the case and he filed an affidavit stating these facts.

4. The Counsel for the petitioners also submitted that in view of the settlement, no purpose will be served in keeping the case. So, he prayed for allowing the application. CrI.M.C.No.2159 of 2014 :

3. :

5. The learned Public Prosecutor, on instructions, as directed by this court submitted that there is no other case against the petitioners but opposed the

application on the ground grave offences have been incorporated.

6. It is an admitted fact that on the basis of the statement given by the third respondent, Annexure I crime was registered as Crime No.215/2009 of Vadakkenchery Police Station of Palakkad District against the petitioners alleging commission of the offences under Sections 143, 147, 148, 341, 294(b), 323, 324 read with Section 149 of Indian Penal Code. It is also an admitted fact that after investigation, Annexure II Final report was filed and it was taken on file as C.C.No.194/2009 on the file of the Judicial First Class Magistrate Court, Alathur and the case is now pending before that court. Now, the parties have settled the dispute and the de facto complainant filed an affidavit stating these facts and he does not want to prosecute the case. It is also seen from the allegations that the parties are neighbours and on account of the intervention of mediators and well wishers of both parties, the dispute between them has been settled and the relationship has been restored. It cannot be said to be an CrI.M.C.No.2159 of 2014 :

4. : incident of public interest. In view of the settlement, there is no possibility of conviction even if the case is allowed to proceed as neither the de facto complainant nor his witnesses will support the case of the prosecution.

7. Further, in the decision reported in Gian Singh V. State of Punjab [2012 (4) KLT108(SC)], it is held as follows: "The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing in criminal proceeding or F.I.R. 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 S.320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline 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 F.I.R 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 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 the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc; or the family disputes where the wrong is basically private or personal in nature and the parties have

Crl.M.C.No.2159 of 2014 :

5. : resolved their entire dispute. In this category of case, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of 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 must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding." 8. In view of the dictum laid down in the above decision and also considering the fact that the matter has been settled between the parties and no purpose will be served by proceeding with the case in view of the settlement and conviction in such cases will be remote and relationship has been restored on account of the settlement, this court feels that it is a fit case where the power under Section 482 of Code of Criminal Procedure can be invoked to quash the proceedings in order to promote the settlement and harmony that has been restored on account of the settlement. So, the application

is allowed and further proceedings in C.C.No.194/2009 (Crime No.215/09 of Vadakkenchery Police Station of Palakkad District) pending before Judicial First Class CrI.M.C.No.2159 of 2014 :

6. : Magistrate Court, Alathur as against the petitioners is quashed. Office is directed to communicate this order to the concerned court immediately for necessary further action. Sd/- K.Ramakrishnan, Judge. Bb [True copy] P.A to Judge

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com