

Jamal Vs. Abbas

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Court : Kerala

Decided On : Aug-19-2014

Judge : Honourable Mr.Justice V.K.Mohanan

Appellant : Jamal

Respondent : Abbas

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE V.K.MOHANAN TUESDAY, THE 19TH DAY OF AUGUST 2014 28TH SRAVANA, 1936 CrI.MC.No. 4111 of 2014 ()
----- CRIME NO. 1755/2014 OF MUVATTUPUZHA POLICE STATION. PETITIONERS/ACCUSED NO. 1 AND 2
----- 1. JAMAL, S/O.ABDUL RAHMAN, AGED 45 YEARS, PLAKUDIYIL HOUSE, PAIPRA, MUVATTUPUZHA.

2. ASEES, S/O.ABDUL RAHMAN, AGED 47 YEARS, PLAKUDIYIL HOUSE, PAIPRA, MUVATTUPUZHA. BY ADV. SRI.GEORGE SEBASTIAN.
RESPONDENTS/INJURED AND STATE:
----- 1. ABBAS, S/O.PAREETH, AGED 35 YEARS, PULLICHALIL HOUSE, MULAVOOR VILLAGE, PUNNOPPADY KARA, MUVATTUPUZHA.

2. MANAF, S/O.USMAN, AGED23YEARS, CHAMAKALAKUZHIYIL HOUSE, MULAVOOR VILLAGE, PAIPRA KARA, MUVATTUPUZHA.

3. NASEEMA, AGED40YEARS, W/O.USMAN, CHAMAKALAKUZHIYIL HOUSE, MULAVOOR VILLAGE, PAIPRA KARA, MUVATTUPUZHA.

4. STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM. R1 TO R3 BY ADV. SRI.BYJU KURIAKOSE. R4 BY PUBLIC PROSECUTOR MR.DHANESH MATHEW MANJOORAN. THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON1908-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: rs. CrI.MC.No. 4111 of 2014 APPENDIX PETITIONER'S ANNEXURES:- ANNEXURE A COPY OF THE FIR IN CRIME NO.1755/2014 OF MUVATTUPUZHA POLICE STATION. ANNEXURE B COPY OF THE FIR IN CRIME NO.1756/2014 OF MUVATTUPUZHA POLICE STATION. ANNEXURE C ORIGINAL AFFIDAVIT SWORN TO BY THE1T RESPONDENT DATED1807/2014. ANNEXURE D ORIGINAL AFFIDAVIT SWORN TO BY THE2D RESPONDENT DATED1807/2014. ANNEXURE E ORIGINAL AFFIDAVIT SWORN TO BY THE3D RESPONDENT DATED1807/2014. RESPONDENT'S ANNEXURES:- NIL. //TRUE COPY// P.S.TO JUDGE rs. V.K.MOHANAN, J.

----- CrI.M.C.No. 4111 of 2014
----- Dated this the 19th day of August, 2014

ORDER

The above petition is filed under Section 482 of the Criminal Procedure Code (for short 'Cr.P.C.')

at the instance of the petitioners, who are accused Nos.1 and 2 in Crime No. 1755/2014 of Muvattupuzha Police Station for the offences punishable under Sections 294(b),308,323,324,506(ii) read with Section 34 of I.P.C. with a prayer to quash all further proceedings against the petitioners herein in Crime No.1755/2014 of Muvattupuzha Police Station in pursuance of Anenxure A FIR, as the matter is settled out of court.

2. The allegation in the above case is that on 6.7.2014 at about 3.15 p.m. the first petitioner herein showered abusive words on the first respondent herein and had attacked on the left hand of the first respondent with a knife and when the first petitioner tried to attack the first respondent with a knife on his head, the first respondent blocked the same resulting in injuries on his right hand also. When the second respondent CrI.M.C.No.4111 of 2014 :-2-: herein tried to pacify them, he was attacked by the second petitioner with a 'pathal' and the third respondent, who came to the scene of incident, was also attacked by the petitioners. The petitioners have committed the offences punishable under Sections 294(b),308,323,324,506(ii) read with Section 34 of I.P.C. and now, the case of the petitioners is that the matter is settled out of court.

3. Heard the learned counsel for the petitioners as well as the respondents 1 to 3. I have also heard the learned Public Prosecutor.

4. The learned counsel for the petitioners submitted that during the pendency of the above crime, the matter is settled amicably between the parties to the dispute which is the subject matter of the above crime. Therefore, the continuation of the proceedings in the above crime is abuse of process of law and proceedings.

5. The learned counsel for respondents 1 to 3, who on the basis of specific instruction received from the respondents, submitted that the above respondents, who are the injured do not intend to proceed any further against the petitioners and he has no grievance against them. CrI.M.C.No.4111 of 2014 :-3-:

6. I have carefully considered the above submissions of the respective counsel. I have verified the documents and materials produced along with the above petition. In the given facts and circumstances of the case and especially in the light of the settlement arrived between the parties to the dispute, the learned Public Prosecutor has also no objection in allowing the above petition.

7. Having regard to the facts and circumstances involved in the case, it can be seen that the offences involved in the above case are only Sections 294(b),308,323,324,506(ii) read with Section 34 of I.P.C. which are more or less personal in nature and no public interest is involved. It is pertinent to note that

though such offences are involved, the real parties to the dispute approached this Court after having amicably settled the matter. From the submission made by the counsel for respondents 1 to 3, it appears to me that the de facto complainants/the injured have no further grievance against the petitioners/accused in the light of the settlement arrived by them. In this juncture, it is relevant to note the decision of the Honourable Apex Court reported in Gian Singh v. State of Punjab [2012(4) KLT108SC)], in which case, the Supreme Court has held as follows:- Crl.M.C.No.4111 of 2014 :-4-: "57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR 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.. It is further held as follows:- "..... But the criminal cases having overwhelmingly and pre- dominatingly 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 resolved their entire dispute. In this category of cases, 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....." According to me, in the light of the facts and circumstances involved in the present case and particularly in view of the settlement arrived in the present case, the dictum laid in the above decision is applicable in the present case. Thus, I am of the view that as the parties to the dispute settled the issues Crl.M.C.No.4111 of

2014 :-5-: amicably, it is the duty of this Court to promote and encourage such settlement, instead of compelling the parties to go on with the dispute. It is pertinent to note that since the matter is settled out of court, in the event of proceeding with the trial, there would not have any fruitful prosecution resulting the conviction of the accused, rather the net result would be sheer waste of judicial time and abuse of process of the court and proceedings. Thus, according to me, following the decisions cited supra, this Criminal M.C. can be allowed granting the relief as sought for. In the result, this CrI.M.C. is allowed, quashing all further proceedings against the petitioners herein in Crime No.1755/2014 of Muvattupuzha Police Station in pursuance of Anenxure A FIR. V.K.MOHANAN, Judge MBS/ CrI.M.C.No.4111 of 2014 :-6-:

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