

Rasheed K.M. Vs. State of Kerala

Rasheed K.M. Vs. State of Kerala

SooperKanoon Citation : sooperkanoon.com/1163065

Court : Kerala

Decided On : Aug-21-2014

Judge : Honourable Mr.Justice V.K.Mohanan

Appellant : Rasheed K.M.

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE V.K.MOHANAN THURSDAY, THE 21ST DAY OF AUGUST 2014 30TH SRAVANA, 1936 CrI.MC.No. 4727 of 2014 ----- CRIME NO. 1251/2014 OF ANTHIKAD POLICE STATION , TRISSUR ----- PETITIONER(S)/ACCUSED 1 AND 2 ----- 1. RASHEED K.M., S/O.MOIDU.K.B., AGED 38 YEARS, KALATHINGAPARAMBIL HOUSE, KALAPAMANGALAM VILLAGE, KODUNGALLUR TALUK, P.O.KALAPAMANGALAM, TRICHUR-680681.

2. IMRAN, S/O.AMEER BASHA, AGED 28 YEARS, DOOR NO.42, IMAM SAHIB STREET, VILLOOR MAMMOORVATTOM, THIRUPATHUR TALUK, VILLOOR DISTRICT, TAMIL NADU. BY ADV. SRI.VINAY RAMDAS
RESPONDENT(S)/COMPLAINANT: ----- 1. STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM-682031.

2. RABEEJA, W/O.BASHEER, AGED34YEARS, AGATHEPEDIKAIL HOUSE, MUTTICHOOR, PADIYAM VILLAGE, TRICHUR TALUK, TRICHUR-680641. R1 BY PUBLIC PROSECUTOR SRI.DANESH MATHEW MANJOORAN R2 BY ADV. SRI.C.CHANDRASEKHARAN THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON2108-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: PJ CrI.MC.No. 4727 of 2014 -----
APPENDIX PETITIONERS' ANNEXURES -----
ANNEXURE I: CERTIFIED COPY OF FIR NO.1251 OF 2014 OF THE ANTHIKAD POLICE STATION, TRICHUR REGISTERED WITH JUDICIAL FIRST CLASS MAGISTRATE'S COURT NO.II, TRICHUR. ANNEXURE II: CERTIFIED COPY OF SCENE MAHAZAR IN FIR NO.1251 OF 2014 OF THE OF ANTHIKAD POLICE STATION, TRICHUR REGISTERED WITH JUDICIAL FIRST CLASS MAGISTRATE'S COURT NO.II, TRICHUR. ANNEXURE III: SWORN AFFIDAVIT OF THE2D RESPONDENT BEFORE THE HONOURABLE COURT. RESPONDENTS' ANNEXURE ----- NIL. / TRUE COPY / P.S. TO JUDGE PJ V.K.MOHANAN, J.

----- CrI.M.C.No. 4727 of 2014
----- Dated this the 21st 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 FIR No. 1251/2014 of the Anthikad Police Station, Trichur registered with Judicial First Class Magistrate Court-II, Trichur for the offences punishable under Sections 452,341,323,354,506(I) and 294(b) read with Section 34 of I.P.C. with a prayer to quash Annexure I FIR No.1251/2014 of Anthikad Police Station as the matter is settled out of court.

2. The allegation in the above case is that the petitioners on 1.8.2014 at 16 hours trespassed into the house of the de facto complainant and had beaten the de facto complainant and threatened her and abused her with obscene language and thus, the petitioners have committed the offences punishable under Sections 452,341,323,354,506(I) and 294(b) read with Section 34 of I.P.C.and now, the

case of the petitioners is that CrI.M.C.No.4727 of 2014 :-2-: the matter is settled out of court.

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

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

5. The learned counsel for the second respondent, who on the basis of specific instruction received from the respondent, submitted that the above respondent, who is the de facto complainant/injured does not intend to proceed any further against the petitioners and she has no grievance against them.

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 CrI.M.C.No.4727 of 2014 :-3-: 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 452,341,323,354,506(I) and 294(b) 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 the second respondent, it appears to me that the injured/the de facto complainant has 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:- "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 CrI.M.C.No.4727 of 2014 :-4-: 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- 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 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 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 CrI.M.C.No.4727 of 2014 :-5-: 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 Annexure I FIR No.1251/2014 of Anthikad Police Station and all further proceedings thereto. V.K.MOHANAN,

Judge MBS/ Crl.M.C.No.4727 of 2014 :-6-:

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