

Rasheed Vs. Shuhaib T.V.

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Court : Kerala

Decided On : Sep-22-2014

Judge : Honourable Mr. Justice P.Ubaid

Appellant : Rasheed

Respondent : Shuhaib T.V.

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE P.UBAID MONDAY, THE 22D DAY OF SEPTEMBER 2014 31ST BHADRA, 1936 CrI.MC.No. 2282 of 2014 () ----- AGAINST CC7422011 of J.M.F.C., PAYYANNUR CRIME NO. 139/2011 OF PAYANGADI POLICE STATION , KANNUR PETITIONER(S)/ACCUSED: ----- 1. RASHEED, AGED 26 YEARS, S/O.KASIM, MANDENTAVIDA HOUSE, MATTOOL AMSOM MATTOOL.P.O., KANNUR DISTRICT.

2. NAFSAL AGED 29 YEARS S/O.SHUKKOOR, MANDENTAVIDA HOUSE, MATTOOL AMSOM MATTOOL.P.O., KANNUR DISTRICT.

3. GAFOOR AGED 25 YEARS S/O.SALAM, PATHALANTAVIDE HOUSE, MATTOOL AMSOM MATTOOL.P.O., KANNUR DISTRICT.

4. ASHIQ AGED 27 YEARS S/O.MOIDU, VATTAKKANDI HOUSE, MATTOOL AMSOM MATTOOL.P.O., KANNUR DISTRICT.

5. NOUFAL AGED32YEARS S/O.ABDUL RAHMAN, BEEMAN HOUSE, MATTOOL AMSOM MATTOOL.P.O., KANNUR DISTRICT.

6. NOUSHAD AGED30YEARS S/O.ABDULLA, PARAKKAT HOUSE, MATTOOL AMSOM MATTOOL.P.O., KANNUR DISTRICT. BY ADVS.SRI.ZUBAIR PULIKKOOL SRI.P.S.BINU RESPONDENT(S)/COMPLAINANT:

----- 1. SHUHAIB T.V., AGED25YEARS S/O.ABDUL SALAM, THAYATH VALAPPIL HOUSE, MATTOOL AMSOM MATTOOL.P.O., KANNUR DISTRICT.PIN-670 001.

2. STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR HIGH COURT OF KERALA, ERNAKULAM. R1 BY ADV. SMT.P.A.ANEESHA R2 BY ADV. PUBLIC PROSECUTOR SMT.S.HYMA THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON2209-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: CrI.MC.No. 2282 of 2014 ()

----- APPENDIX PETITIONER(S)' EXHIBITS -----
ANNEXURE I- TRUE COPY OF THE FIR & POLICE CHARGE IN CRIME NO.139/11 OF PAZHAYANGADI POLICE STATION. ANNEXURE II- THE TRUE COPY OF THE AFFIDAVIT OF1T RESPONDENT. RESPONDENT(S)' EXHIBITS
----- /TRUE COPY/ P.S TO JUDGE P.UBAID, J.

~~~~~ CrI.M.C No.2282 of 2014 ~~~~~ Dated this the 22nd September, 2014

## ORDER

The petitioners herein are the six accused in C.C No.742 of 2011 before the Judicial First Class Magistrate Court, Payyannur. Crime in the said case was registered on the complaint of one Shuhaib. The offences involved are under Sections 143, 147, 148, 448, 427, 323 and 326 I.P.C. The accused have brought this petition under Section 482 of Cr.P.C to quash the prosecution on the ground that they have settled the whole dispute with the de facto complainant, that they have made payment of adequate compensation to the complainant, and that the complainant is not now interested in the prosecution. The said Shuhaib is the 1st respondent in this proceeding.

2. The 1st respondent has filled affidavit to the effect that he has settled the whole dispute with the accused, that he has received adequate amount of compensation from them, and that he has no complaint or CrI.M.C No.2282 of 2014 2 grievance now. The accused have come before this Court under Section 482 of Cr.P.C for the reason that the offence under Section 326 I.P.C is not compoundable under the law. I do not find any strong, definite and satisfactory material to show prima facie that this case involves the offence punishable under Section 326 I.P.C.

3. In *Narinder Singh & Others v. State of Punjab and another* [2014 (2) KLJ252, the Hon'ble Supreme Court has made some guidelines for exercise of jurisdiction by High Courts under Section 482 of Cr.P.C in matters involving non-compoundable offences. In this case, the guidelines made by the Hon'ble Supreme Court can well be followed. I am well satisfied that the parties have really settled the whole dispute, and I find that continuance of the prosecution in such a circumstance will not serve any purpose, other than wasting the time of the court. It is reported that the 1st accused is involved in another crime under Section 498A, I.P.C. That there is such a crime due to some family dispute, or matrimonial dispute, will not dis entitle him for orders under Section 482 of Cr.P.C, because CrI.M.C No.2282 of 2014 3 it is not a case involving any public issue or public interest. In the result, this CrI.M.C is allowed. The criminal prosecution against the petitioners herein in C.C742of 2011 of the Judicial First Class Magistrate Court, Payyannur will stand quashed under Section 482 of Cr.P.C and the petitioners will stand released from prosecution. The bail bond executed by the petitioners will stand discharged. Sd/- P.UBAID JUDGE ma /True copy/ P.S to Judge

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