

Gopakumar @ Kannan Vs. Sunil Kumar

Gopakumar @ Kannan Vs. Sunil Kumar

SooperKanoon Citation : sooperkanoon.com/1165518

Court : Kerala

Decided On : Oct-08-2014

Judge : Honourable Mr. Justice P.Ubaid

Appellant : Gopakumar @ Kannan

Respondent : Sunil Kumar

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE
HONOURABLE MR. JUSTICE P.UBAID WEDNESDAY, THE 8TH DAY OF
OCTOBER 2014 16TH ASWINA, 1936 CrI.MC.No. 4308 of 2014 ()
----- AGAINST THE

JUDGMENT

IN SC3532008 of ADDITIONAL SESSIONS COURT (ADHOC)-II, KOLLAM
AGAINST THE

ORDER

IN CP632007 of J.M.F.C.-II, KOLLAM DATED CRIME NO. 21/2007 OF
SAKTHIKULANGARA POLICE STATION , KOLLAM
PETITIONER(S)/PETITIONER/ACCUSED NO.2:

----- GOPAKUMAR @ KANNAN AGED 26 YEARS
S/O KRISHNAN ACHARY, G.G BHAVANAM, MAMATHA NAGAR 135
GOPIKKADAMUKKU, SAKTHIKULANGARA KOLLAM BY

ADVS.SRI.C.RAJENDRAN SRI.K.R.RANJITH RESPONDENTS/DE-FACTO
COMPLAINANT/STATE: ----- 1. SUNIL
KUMAR, AGED34YEARS S/O KARUNAKARA PANICKER, 175, THOTTUVA
KIZHAKKATHIL KANNIMEL, SAKTHIKULANGARA, KOLLAM2 RAJESH,
AGED35YEARS S/O MANIYAN, EDAYANATTU VEEDU, KANNIMEL
SAKTHIKULANGARA, KOLLAM3 STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR HIGH COURT OF KERALA, ERNAKULAM R1,2 BY ADV.
SMT.N.P.SHIGA R3 BY PUBLIC PROSECUTOR SMT.S.HYMA THIS CRIMINAL
MISC. CASE HAVING COME UP FOR ADMISSION ON0810-2014, THE COURT
ON THE SAME DAY PASSED THE FOLLOWING: CrI.MC.No. 4308 of 2014 ()
----- APPENDIX PETITIONER(S)' EXHIBITS

----- ANNEXURE A1 : A TRUE PHOTOCOPY OF THE FINAL
REPORT IN CRIME NO.21/2007 OF SAKTHIKULANGARA POLICE STATION,
KOLLAM ANNEXURE A2 : A TRUE PHOTO COPY OF THE

JUDGMENT

DATED2210.2010 IN SC NO.353/2008 RESPONDENT(S)' EXHIBITS
----- /TRUE COPY/ P.S TO JUDGE P.UBAID, J.

~~~~~ CrI.M.C No.4308 of 2014 ~~~~~ Dated this the 8th October,  
2014

## ORDER

The petitioner herein is the original second accused in Crime No.21 of 2007 of Sakthikulangara Police Station. The other accused involved in the crime faced trial in SC No.353 of 2008 before the Additional Sessions Court (Adhoc ) II, Kollam and obtained acquittal, when all the material witnesses including the persons who sustained injuries in the incident turned totally hostile to the prosecution. When the petitioner herein absconded from judicial process, the case against him was split up and re-filed, and now it stands transferred to the register of long pending cases as LP13of 2010. The original second accused has now approached this Court under Section 482 Cr.P.C to have the prosecution against him quashed on the ground that he and the injured persons have amicably settled the whole dispute, and that continuance of prosecution will not serve any purpose, especially when

the other accused had acquitted. CrI.M.C No.4308 of 2014 2 2. Annexure-A2 judgment produced by the petitioner shows that during trial in SC No.353 of 2008, all the material witnesses including injured persons turned hostile, and they stated nothing to incriminate any of the accused. When cross-examined by the learned Public Prosecutor, all of them stated that the matter stands settled. As composition as such was not possible, the trial court proceeded with trial and accordingly, the prosecution examined the material witnesses. In the above circumstances, I find that prosecution against the petitioner herein will not serve any purpose. The petitioner seeks orders not just because the other accused stand acquitted, but mainly on the ground that the dispute stands settled. Annexure A2 judgment shows that such a settlement was in fact reported, but it could not be acted upon as composition. Anyway, presently there is no dispute between the parties, and the injured persons have no complaint or grievance. There is absolutely no possibility of then supporting the prosecution in case the case against the petitioner goes to trial. The Hon'ble Supreme Court has held CrI.M.C No.4308 of 2014 3 in so many decisions that even in cases involving non- compoundable offences, the High Court can act under Section 482 Cr.P.C and quash the prosecution, if continuance of prosecution will not serve any purpose, or will only waste the precious time of the court. In the result, this petition is allowed. The prosecution against the petitioner herein now pending in LP13of 2010 of the Additional Sessions Court (Adhoc) II, Kollam will stand quashed under Section 482 of Cr.P.C, and the petitioner will stand released from prosecution. The bail bond, if any, executed by the petitioner will stand discharged. Sd/- P.UBAID JUDGE ma /True copy/ P.S to Judge

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**