

Ashad Vs. Abdul Naser

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SooperKanoon Citation : sooperkanoon.com/1165762

Court : Kerala

Decided On : Oct-10-2014

Judge : Honourable Mr. Justice P.Ubaid

Appellant : Ashad

Respondent : Abdul Naser

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE P.UBAID FRIDAY, THE 10TH DAY OF OCTOBER 2014 18TH ASWINA, 1936 CrI.MC.No. 5709 of 2014 ()
----- AGAINST THE

JUDGMENT

IN CC11162014 of J.M.F.C.,MALAPPURAM CRIME NO.377 OF 2010 OF KONDOTTY POLICE STATION PETITIONER(S)/ACCUSED:
----- 1. ASHAD S/O. HAMSA, NARANGATT MALAYIL HOUSE, PULIKAL AMSOM ANTHIYURKUNNU, MALAPPURAM DISTRICT.

2. SUDHEESH S/O. RAMAN, MANAKUNNATH HOUSE NAMBOOTHIRIMADATHIL HOUSE, PULIKKAL AMSOM ANTHIYURKUNNU, MALAPPURAM DISTRICT. BY ADV. SRI.V.A.JOHNSON (VARIKKAPPALLIL) RESPONDENT(S)/DEFACTO COMPLAINANT (CW1), CW2, CW3 & STATE:
----- 1. ABDUL NASER, AGED 23 YEARS

S/O. HASSANAIR, CHUNDATHIL HOUSE, VALIYAPRARMBU PULIKIKAL, MALAPPURAM DISTRICT.

2. KARI AYOOB, AGED 26 YEARS S/O. MUHAMMED, PURAYI HOUSE, NEDIYIRIPPU MALAPPURAM DISTRICT- 676 103.

3. VALLANCHIRA ARAFATH, AGED 24 YEARS S/O. KUNHI MOIDEEN, VALLANCHIRA HOUSE N.S.S COLLEGE ROAD, KIZHAKKETHALA, MANJERI AMSOM MANJERI DESOM, MALAPPURAM DISTRICT- 676 101.

4. STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR HIGH COURT OF KERALA, ERNAKULAM - 682 031. R1-3 BY ADV. SRI.P.M.RAFIQ R4 BY PUBLIC PROSECUTOR SMT. SAREENA GEORGE. THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 10/10/2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: CrI.MC.No. 5709 of 2014 ()

----- APPENDIX PETITIONER(S)' EXHIBITS
----- ANNEXURE A - TRUE COPY OF THE FINAL REPORT IN CC NO. 1484/2010 OF THE COURT OF JUDICIAL MAGISTRATE OF FIRST CLASS, MALAPPURAM NOW PENDING AS CC NO. 1116/14 OF THE COURT OF JUDICIAL MAGISTRATE OF FIRST CLASS, MALAPPURAM. ANNEXURE B - TRUE COPY OF THE

JUDGMENT

IN CC NO.1484/2010 OF THE COURT OF JUDICIAL MAGISTRATE OF FIRST CLASS, MALAPPURAM, DT. 05.9.14. ANNEXURE C - THE AFFIDAVIT SWORN BY THE DEFACTO COMPLAINANT/1ST RESPONDENT DT. 06.09.14 INFORMING THE FACTUM OF SETTLEMENT BEFORE THIS HONOURABLE COURT. ANNEXURE D - THE AFFIDAVIT SWORN BY THE CW2/2ND RESPONDENT BEFORE THIS HONOURABLE COURT DT. 06.09.14 INFORMING THE FACTUM OF SETTLEMENT. ANNEXURE E - THE AFFIDAVIT SWORN BY THE CW3/3RD RESPONDENT BEFORE THIS HONOURABLE COURT DT. 06.09.14 INFORMING THE FACTUM OF SETTLEMENT. RESPONDENT(S)' EXHIBITS ----- /TRUE COPY/ P.S TO JUDGE P.UBAID, J.

~~~~~ Crl.M.C No.5709 of 2014 ~~~~~ Dated this the 10th  
October, 2014

## ORDER

The petitioners herein are the original accused Nos.2 and 6 in Crime No.377 of 2010 of Kondotty Police Station. The other accused in the crime faced trial before the Judicial First Class Magistrate Court, Malappuram in C.C No.1484 of 2010, and obtained a judgment of acquittal, when the material witnesses turned hostile to the prosecution, in view of the amicable settlement made by the parties. The case against these petitioners was split up and re-filed as C.C No.1116 of 2014, when they remained consistently absent. Now they have brought this petition under Section 482 of the Code of Criminal Procedure to have the prosecution quashed on the ground that they and the de facto complainant have settled the dispute amicably. Crime in the case was registered on the complaint of one Abdul Naser. The said Abdul Naser and two others sustained injuries in the alleged incident. The offences involved are under sections 143, 147, 148, 341, 323 and Crl.M.C No.5709 of 2014 2 427 of Indian Penal Code. The persons who sustained injuries in the incident, including the first informant are the respondents 1 to 3 in this proceeding. They have filed affidavit to the effect that they have settled the case amicably with the accused, and that they have no grievance or complaint. The main offences are in fact compoundable, but the petitioners seek orders under Section 482 of the Code of Criminal Procedure because the offences under Sections 143, 147 and 148 are not compoundable under the law. I am well satisfied that the parties have really settled the dispute, and that continuance of prosecution will not serve any purpose, other than wasting the time of the trial court. In the result, this petition is allowed. The prosecution against the petitioners in C.C No.1116 of 2014 of the Judicial First Class Magistrate's Court, Malappuram will stand quashed under Section 482 of the Code of Criminal Procedure, and the petitioners will stand released from prosecution. The bail bond, if any, executed by the petitioners will stand discharged. Sd/- P.UBAID JUDGE ma /True copy/ P.S to Judge