

Askar Vs. State of Kerala

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Court : Kerala

Decided On : Oct-23-2014

Judge : Honourable Mr. Justice P.Ubaid

Appellant : Askar

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE P.UBAID THURSDAY, THE 23D DAY OF OCTOBER 2014 1ST KARTHIKA, 1936 CrI.MC.No. 5550 of 2014 () ----- CRIME NO. 319/2014 OF MELATTUR POLICE STATION , MALAPPURAM PETITIONERS/ACCUSED: ----- 1. ASKAR SON OF ABDURAHIMAN, KULANGARA HOUSE, VENGUR AMSOM DESOM PATTIKKAD POST, MALAPPURAM DISTRICT 2 SULAIMAN SON OF BAVA, KOTTAKKAL HOUSE, ALIPARAMBA AMSOM ALIPARAMBA POST, PERINTHALMANNA TALUK MALAPPURAM DISTRICT 3 SAMEER, SON OF MAMMU, KULANGARA HOUSE, VENGUR AMSOM DESOM PATTIKKAD POST, MALAPPURAM DISTRICT 4 SHAJAHAN SON OF MOHAMMEDALI, KOLOTHODI HOUSE VENGUR AMSOM DESOM, PATTIKKAD POST MALAPPURAM DISTRICT 5 SAKEER SON OF MAMMU, KULANGARA HOUSE, VENGUR AMSOM DESOM PATTIKKAD POST, MALAPPURAM DISTRICT 6 MUHAMMEDALI SON OF ABDURAHIMAN, KULANGARA HOUSE VENGUR AMSOM DESOM, PATTIKKAD POST MALAPPURAM DISTRICT BY ADV.

SRI.SOJAN MICHEAL RESPONDENT(S)/RESPONDENTS/STATE :

----- 1. STATE OF KERALA REPRESENTED BY
THE PUBLIC PROSECUTOR HIGH COURT OF KERALA, ERNAKULAM,
KOCHI682031 2. MR.PRANAV GOPAL,, AGED21YEARS SON OF GOPALAN,
PULICKAL HOUSE, VENGOOR MELATTUR, MALAPPURAM PIN679326 R2 BY
ADV. SRI.NISHIL.P.S. R1 BY PUBLIC PROSECUTOR SMT.S.HYMA THIS
CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON2310-2014,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING: CrI.MC.No. 5550
of 2014 () ----- PETITIONER(S)' EXHIBITS

----- ANNEXURE1CERTIFIED COPY OF THE FIRST
INFORMATION REPORT DATD1006-2014 ALONG THE FIRST INFORMATION
STATEMENT IN CRIME NO3192014 OF MELATTUR POLICE STATION
ANNEXURE II AFFIDAVIT DATED2909-2014 SWORN BY THE2D
RESPONDENT RESPONDENT(S)' EXHIBITS ----- /TRUE
COPY/ P.S TO JUDGE P.UBAID, J.

~~~~~ CrI.M.C No.5550 of 2014 ~~~~~ Dated this the 23rd  
October, 2014

## ORDER

The petitioners herein are the accused in Crime No.319 of Melattur Police Station in Malappuram, registered under Sections 143, 147, 148, 149, 308, 323, 324 and 341. Crime in the said case was registered on the complaint of one Pranav Gopal @ Pranav Lal, that the petitioners herein assaulted him and inflicted injuries on his body with weapon, with the knowledge that the injuries may cause death. Now the accused seek orders under Section 482 of the Code of Criminal Procedure quashing the F.I.R and further proceedings on the ground that they and the de facto complainant have settled the dispute amicably out of court. On a perusal of the First Information Statement, I find that Section 308 of Indian Penal Code was incorporated in the F.I.R on the basis of some hypothetical statement, and not on the basis of any definite material attracting Section 308 of Indian Penal Code. I find that this is a very simple case of assault. Anyway, the parties have CrI.M.C No.5550 of 2014 2 amicably settled the dispute out of court. The Hon'ble Supreme

Court has held in so many decisions that prosecution, be it at the crime stage or at the trial stage, can be closed by the High Court under Section 482 of the Code of Criminal Procedure, if continuance of prosecution will not serve any purpose, when the parties have come to terms amicably. The de facto complaint, Pranav Lal is the 2nd respondent in this proceeding. He has filed affidavit to the effect that he has settled the whole dispute with the accused, and that he has no grievance or complaint.

2. Learned Public Prosecutor submits, on instruction, that the parties have come to terms, and that the petitioners are not involved in any other crime. It is also submitted that the injured was not in fact admitted in any hospital. Thus, it is quite evident that Section 308 of Indian Penal Code was incorporated in the F.I.R with some ulterior object. Anyway, the parties have come to terms. In the result, this petition is closed. The F.I.R and further proceedings in Crime No.319 of 2014 of Melattur Police Station in Malappuram District as against the Crl.M.C No.5550 of 2014 3 petitioner herein will stand quashed under Section 482 of the Code of Criminal Procedure, and the petitioners will stand released from such proceedings.

Sd/- P.UBAID JUDGE ma /TRUE COPY/ P.S to Judge

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