

Shafi Vs. State of Kerala

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SooperKanoon Citation : sooperkanoon.com/1166583

Court : Kerala

Decided On : Oct-24-2014

Judge : Honourable Mr. Justice P.Ubaid

Appellant : Shafi

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE P.UBAID FRIDAY, THE 24TH DAY OF OCTOBER 2014 2ND KARTHIKA, 1936 CrI.MC.No. 6014 of 2014 () ----- IN CC1192014 of JUDICIAL FIRST CLASS MAGISTRATE COURT-II(FOREST OFFENCES), MANJERI CRIME NO. 454/2013 OF VAZHAKKAD POLICE STATION, MALAPPURAM PETITIONER(S)/ACCUSED: ----- 1. SHAFI S/O.SHEIK MUHAMMED, MAILANGOTTU HOUSE, VAZHAKAD AMSOM CHERUVAYOOR, MALAPPURAM DISTRICT.

2. SHEIK MUHAMMED MAILANGOTTU HOUSE, VAZHAKAD AMSOM, CHERUVAYOOR MALAPPURAM DISTRICT.

3. FADISH S/O.SHEIK MUHAMMED, MAILANGOTTU HOUSE, VAZHAKAD AMSOM CHERUVAYOOR, MALAPPURAM DISTRICT.

4. SULFIKAR ALI S/O.AHAMMEDKUTTY, PULIKKATHODI HOUSE, VAZHAKAD AMSOM CHERUVAYOOR, MALAPPURAM DISTRICT. BY ADVS.SRI.BABU S.

NAIR SRI.K.RAKESH RESPONDENT(S)/STATE, DEFACTO COMPLAINANT
AND CWS68.:

----- 1. STATE
OF KERALA REPRESENTED BY THE STATION HOUSE OFFICER
VAZHAKKAD POLICE STATION-THROUGH THE PUBLIC PROSECUTOR HIGH
COURT OF KERALA, ERNAKULAM, KOCHI-31.

2. RAFEEDA W/O.RAMEES, ILASSERY HOUSE, OORNGATTIRI AMSOM
DESOM, ERNAD TALUK, MALAPPURAM DISTRICT PIN-676121.

3. RAMEEF S/O.ASSAINAR, ILASSERY HOUSE, OORNGATTIRI AMSOM
DESOM, ERNAD TALUK, MALAPPURAM DISTRICT PIN-676121. CrI.MC.No.
6014 of 2014 () ----- 4. SULAIMAN S/O.SALAM,
PUTHANPURAKKAL VEEDU, OORNGATTIRI AMSOM DESOM, ERNAD TALUK,
MALAPPURAM DISTRICT PIN-676121.

5. MUHAMMEDKUTTY S/O.UNNI MUHAMMED, CHELAPURATH HOUSE,
CHERUVADY KODIYATHOOR AMSOM, KOZHIKKODE DISTRICT, PIN-676121.
R2-5 BY ADV. SRI.R.RANJITH (K/489/2011) R1 BY PUBLIC PROSECUTOR
SMT. S. HYMA THIS CRIMINAL MISC. CASE HAVING COME UP FOR
ADMISSION ON2410-2014, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING: CrI.MC.No. 6014 of 2014 () ----- APPENDIX
PETITIONER(S)' EXHIBITS ----- ANNEXURE A : TRUE
COPY OF THE MEMORANDUM OF EVIDENCE AND CHARGE IN CRIME45413
OF THE VAZHAKAD POLICE STATION. ANNEXURE B : TRUE COPY OF THE
AFFIDAVIT DT.25-9-2014 SWORN TO BY THE R2. ANNEXURE C : TRUE COPY
OF THE AFFIDAVIT DT.25-9-2014 SWORN TO BY THE R3. ANNEXURE D :
TRUE COPY OF THE AFFIDAVIT DT.25-9-2014 SWORN TO BY THE R4.
ANNEXURE E : TRUE COPY OF THE AFFIDAVIT DT.25-9-2014 SWORN TO BY
THE R5. RESPONDENT(S)' EXHIBITS: NIL ----- /TRUE
COPY/ PATO JUDGE sab P.UBAID, J.

----- CrI. M.C No. 6014 of 2014 -----

Dated this the 24th day of October, 2014.

ORDER

The petitioners herein are the accused in crime No. 454 of 2013 of the Vazhakkad Police Station, registered under Section 341, 323 and 324 IPC. Crime in the said case was registered on the complaint of one Muhammedkutty that these petitioners assaulted him and his friends, and inflicted injuries on their body. Cognizance on the final report submitted by the police was taken as C.C1192014 in the court of Judicial First Class Magistrate - II (Forest offences), Manjeri. The petitioners seek orders under Section 482 Cr.P.C quashing the prosecution on the ground that they and the defacto complainant have amicably settled the whole dispute out of court, and that continuance of prosecution will not serve any purpose. The first informant Muhammedkutty and the other persons who sustained injuries in the alleged incident are the respondent 2 to 5 in this proceeding. They have filed affidavit to the effect that they have settled the whole dispute with the accused, and that they have no complaint or grievance now. Order under section 482 Cr.P.C is sought, because the offence under Section 324 IPC is not now compoundable after the amendment to the code of Criminal Procedure. The Hon'ble Supreme Court has held in so many decisions that even in cases CrI. M.C No. 6014 of 2014² involving non compoundable offences, the High Court can quash prosecution, if the parties have really settled the whole dispute, and continuance of prosecution will not serve any purpose. I am well satisfied that the parties have really settled the whole dispute, and continuance of prosecution in such a circumstance will not serve any purpose, other than wasting the precious time of the trial court. In the result, this CrI.M.C is allowed. The prosecution as against the petitioners in C.C No.119/2014 of the Judicial First Class Magistrate Court - II (Forest offences), Manjeri will stand quashed under Section 482 Cr.P.C, and the petitioners will stand released from prosecution. The bail bond, if any, executed by them will stand discharged. P.UBAID, JUDGE sab