

Jafar Vs. State of Kerala

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Court : Kerala

Decided On : Oct-30-2014

Judge : Honourable Mr. Justice P.Ubaid

Appellant : Jafar

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE P.UBAID THURSDAY, THE 30^H DAY OF OCTOBER 2014 8TH KARTHIKA, 1936 CrI.MC.No. 6114 of 2014 ()
----- AGAINST CP42014 of J.M.F.C - I, ., PERAMBRA CRIME NO. 310/2013 OF PERAMBRA POLICE STATION , KOZHIKODE PETITIONER(S):
----- 1. JAFAR, 34 YEARS, S/O.KUNHIMOIDEEN, KUTHIRAVATTATHUMMAL HOUSE KARAYAD P.O.

2. BASHEER, AGED 35 YEARS, S/O.AMMOTTY, EDATHIKANDYMITHAL HOUSE, KAVIL P.O. BY ADV. SMT.K.DEEPA (PAYYANUR) RESPONDENT(S):
----- 1. STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR HIGH COURT OF KERALA, ERNAKULAM.

2. MUNEER S/O.HASSANKUTTY, THARAVATTATH HOUSE, KARAYAD P.O. R2 BY ADV. SMT.M.MANJU R1 BY PUBLIC PROSECUTOR SMT.S.HYMA THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 30/10-2014,

THE COURT ON THE SAME DAY PASSED THE FOLLOWING: CrI.MC.No. 6114 of 2014 () ----- APPENDIX PETITIONER(S)' EXHIBITS ----- ANNEXURE I: COPY OF THE FIR IN CRIME NO.310/13 OF THE PERAMBRA POLICE STATION, KOZHIKODE. ANNEXURE-II:. COPY OF THE FINAL REPORT OF CRIME NO.310/2013 OF THE PERAMBRA POLICE STATION, KOZHIKODE. ANNEXURE III. COPY OF THE AFFIDAVIT FILED BY THE 2D RESPONDENT. RESPONDENT(S)' EXHIBITS: ----- /TRUE COPY/ P.S TO JUDGE P.UBAID, J.

~~~~~ CrI.M.C No.6114 of 2014 ~~~~~ Dated this the 30th October, 2014

## ORDER

The petitioners herein are the two accused in C.P. No.4 of 2014 before the Judicial Magistrate of First Class-I, Perambra. Crime in the said case was registered under Sections 143, 147, 148, 341, 323, 324 and 308 of Indian Penal Code, on the complaint of one Muneer. The de facto complainant Muneer is the 2nd respondent in this proceeding. After investigation, the police submitted final report against the accused under Sections 341, 324 and 308 of Indian Penal Code. Cognizance was accordingly taken by the committal court under those sections. The accused have brought this petition under Section 482 of Cr.P.C to quash the prosecution on the ground that they and the complainant have settled the dispute amicably out of court, and continuance of prosecution in such a circumstance will not serve any purpose. The 2nd respondent has filed affidavit to the effect that he has settled the dispute with the accused, and that he has no grievance or complaint. In so many decisions like *Gian Singh v. State of Punjab* CrI.M.C No.6114 of 2014 2 [2012 (4) KLT108SC ] and in *Narinder Singh & Others v. State of Punjab* and another [ 2014 (2) KLJ252, the Hon'ble Supreme Court has held that even in cases involving non-compoundable offences, the High Court can quash prosecution, if the parties have really settled the whole dispute, or if continuance of prosecution will not serve any purpose. In this case I find that Section 308 of Indian Penal Code was incorporated in the F.I.R by the police on the basis of purely a hypothetical statement. I find nothing to attract such an offence. In this case, continuance of

prosecution will be a sheer waste of time, when the parties have really settled the whole dispute. In the result, this petition is allowed. The prosecution against the petitioners herein in C.P.4 of 2014 of the Judicial First Class Magistrate's Court, Perambra will stand quashed under Section 482 of the Code of Criminal Procedure. Accordingly, 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

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