

Sumodh Vs. State of Kerala

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SooperKanoon Citation : sooperkanoon.com/1166730

Court : Kerala

Decided On : Oct-30-2014

Judge : Honourable Mr. Justice P.Ubaid

Appellant : Sumodh

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE P.UBAID THURSDAY, THE 30TH DAY OF OCTOBER 2014 8TH KARTHIKA, 1936 CrI.MC.No. 3897 of 2014
----- AGAINST S.C NO. 176/2000 OF THE ADDITIONAL SESSIONS COURT, MAVELIKKARA CRIME NO. 152/1996 OF MANNAR POLICE STATION, ALAPPUZHA PETITIONERS/ACCUSED A1-A2:
----- 1. SUMODH, AGED 30 YEARS, S/O. GOPALAKRISHNAN, MADAPALLIL VEEDU, KUTTAMPEROOR MURI, MANNAR VILLAGE, ALAPPUZHA DISTRICT.

2. SANTHOSH @ VENU, AGED 38 YEARS, S/O. VASUDEVAN ACHARI, CHAKKANATTETHU VEEDU, KUTTAMPEROOR MURI, MANNAR VILLAGE, ALAPPUZHA DISTRICT. BY ADV. SRI. AJITH MURALI
RESPONDENTS/COMPLAINANT: ----- 1. STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM - 682 031.

2. PRASANNAKUMAR, AGED37YEARS, S/O.JANARDHANA PANICKER, KADABATTU VETTEL, VIZHAVARSSERIKARA MURI, KURATTISERRI VILLAGE, MANNAR ALAPUZHA DISTRICT - 689 622.

3. JAYAKUMAR, AGED33YEARS, S/O.GOPALAN PILLAI, KUNTATHU THEKKETHIL, KUTTAMPEROOR MURI, MANNAR VILLAGE, ALAPPUZHA DISTRICT - 689 622.

4. RADHAKRISHNAN, AGED35YEARS, S/O.NARAYANAN, PUTHOOR VADAKETHIL VETTEL, KUTTAMPEROOR MURI, MANNAR VILLAGE, ALAPPUZHA DISTRICT - 689 622. BY SRI.P.V.DILEEP R1 BY PUBLIC PROSECUTOR SM.SAREENA GEORGE.P THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON3010-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: CrI.MC.No. 3897 of 2014
----- APPENDIX PETITIONERS' ANNEXURES: -----
ANNEXURE A. COPY OF CHARGE SHEET IN CRIME NO.152/1996 OF MANNAR POLICE STATION. ANNEXURE B. COPY OF

JUDGMENT

DATED2112.2006 IN S.C.NO.176/2000 OF THE ADDITIONAL SESSIONS JUDGE-II, MAVELIKARA. RESPONDENTS' ANNEXURES: ----- NIL
//TRUE COPY// P.A TO JUDGE ab P.UBAID, J.

----- CrI.M.C No. 3897 of 2014
----- Dated this the 30th day of October, 2014

ORDER

The name of the first petitioner in this proceeding stands deleted as ordered on CrI.M.A No.7588/2014. The 2nd petitioner herein is the original 7th accused in Crime No.152/1996 of the Mannar Police Station. Cognizance on the final report submitted by the police was taken, and the accused Nos.1 to 5 faced trial before the learned Additional Sessions Judge-II, Mavelikkara in S.C No.176/2000. The prosecution examined the material witnesses as PW1 to PW3, but none of them supported the prosecution in view of the amicable settlement made out of court. In

such a situation, the learned Sessions Judge acquitted the accused Nos.1 to 5 under Section 232 of the Code of Criminal Procedure. The case against accused Nos.6 and 7 was split up and re-filed, and the case was later transferred to the register of long pending cases as L.P No.4/2007. Pending the proceeding the original 6th accused Sumodh died. Now only the petitioner herein, who is the original 7th accused, remains to face prosecution. Now he seeks CrI.M.C No. 3897 of 2014 2 orders under Section 482 of the Code of Criminal Procedure, quashing the prosecution against him on the ground that he and the injured persons have amicably settled the whole dispute, and that the prosecution cannot in any manner improve the case, or the material witnesses will not support the prosecution in view of the acquittal of others as per judgment dated 21.12.2006 in S.C No.176/2000. Crime in the said case was registered on the complaint of one Prasannakumar, that this petitioner and the others assaulted him and his friend Jayakumar and Radhakrishnan, and inflicted injuries on their body. Those persons are respondents 2 to 4 in this proceeding. They have filed affidavit to the effect that they have settled the dispute amicably with the accused, including the petitioner herein, and that they have no complaint or grievance now. As directed by this Court, the petitioner herein surrendered before the trial court, and it is now reported that he was released on bail.

2. A perusal of Annexure B judgment shows that the other five accused obtained judgment of acquittal under Section 232 of the Code of Criminal Procedure when all the material witnesses turned hostile to the prosecution. They are the respondents 2 to 4 herein. Now doubt, they will not in any CrI.M.C No. 3897 of 2014 3 manner support the prosecution in view of the settlement, if the case against the petitioner herein goes to trial. Continuance of prosecution against the petitioners herein will not serve any purpose other than wasting the precious time of the court. In the result, this Criminal Miscellaneous Case is allowed. The prosecution pending against the 2nd petitioner herein in L.P No.4/2007 before the Additional Sessions Court-II, Mavelikkara will stand quashed under Section 482 of the Code of Criminal Procedure, and the petitioner will stand released from prosecution. The bail bond, if any, executed by the petitioner will stand discharged.

P.UBAID JUDGE ab