

Muneer Vs. Jayarajan

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Court : Kerala

Decided On : Nov-10-2014

Judge : Honourable Mr. Justice P.Ubaid

Appellant : Muneer

Respondent : Jayarajan

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE P.UBAID MONDAY,THE10H DAY OF NOVEMBER201419TH KARTHIKA, 1936 CrI.MC.No. 6329 of 2014 () ----- SC6652007 of ADDITIONAL SESSIONS COURT (ADHOC)-I, KASARAGOD CRIME NO. 797/2006 OF KASARAGOD POLICE STATION, KASARGOD DISTRICT ===== PETITIONER/ACCUSED: ----- MUNEEER, AGED27YEARS S/O.ASSINAR, R/AT AAHOUSE, GUDDE ROAD ADUKKATHBAIL, KASARAGOD TALUK AND DISTRICT. BY ADVS.SRI.T.B.SHAJIMON SMT.GOVINDU P.RENUKADEVI RESPONDENTS/RESPONDENTS/COMPLAINANT/STATE:

----- 1. JAYARAJAN, AGED52YEARS S/O.KOGGU, R/AT NEERCHAL, KUDULU VILLAGE KASARAGOD TALUK AND DISTRICT.

2. STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR HIGH COURT OF KERALA, ERNAKULAM. R1 BY ADV. SRI.LOHITHAKSHAN

CHATHADI KANNOTH R2 BY PUBLIC PROSECUTOR SMT. P.MAYA THIS
CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 10/11/2014,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING: CrI.MC.No. 6329
of 2014 () APPENDIX PETITIONER'S EXHIBITS -----
ANNEXURE A1- THE COPY OF

ORDER

IN S.C.NO.665/2007 & S.C.NO.7/2010 ON THE FILE OF THE CHIEF JUDICIAL
MAGISTRATE, KASARAGOD. ANNEXURE A2- THE CERTIFIED COPY OF THE
FINAL REPORT FILED BY THE RESPONDENT. RESPONDENTS' EXHIBITS
----- NIL // TRUE COPY // P.A. TO JUDGE SD P. UBAID,
J.

----- CrI.M.C. No. 6329 Of 2014
----- Dated this the 10th day of November, 2014

ORDER

Petitioner herein is the original 6th accused in Crime No. 797/2006 of the
Kasaragod Police Station. The case against him and the original 2nd accused was
split up and re-filed when they absconded from legal process. The other 5 accused
in the crime faced trial at two stages and obtained judgment of acquittal under
Section 232 Cr.P.C., when all the material witnesses turned hostile to the
prosecution. Crime in the said case was registered under Sections
143,147,148,323,324,427 and 308 IPC on the complaint of one Jayarajan. He is
the 1st respondent in this proceeding. The petitioner now seeks order under
Section 482 Cr.P.C. quashing the prosecution against him in S.C. No. 381/2009
before the Additional Sessions Court (Adhoc)-I, Kasaragod, which stands
transferred to the register of long pending cases as L.P.C.No. 1/2011, on the
ground that he and the defacto complainant have amicably settled the whole
dispute, and that continuance of prosecution against him will not serve CrI.M.C..
No.6329/2014 any purpose. The defacto complainant, Jayarajan has filed
affidavit to the effect that he has settled the dispute with the accused, and that he
has no grievance or complaint now. Annexure-I series judgments will show that
the other accused obtained judgment of acquittal under Section 232 Cr.P.C. when

all the material witnesses including the defacto complainant Jayarajan turned hostile to the prosecution. I find that they did not support the prosecution during trial in view of an amicable settlement made out of court. I am definite that continuance of prosecution against the petitioner will not serve any purpose, other than wasting the precious time of the court, when the parties have come to terms and resolved the whole dispute forever. In so many decisions, the Honourable Supreme Court has held that even in cases involving non-compoundable offences the High Court can quash the prosecution, if continuance of such prosecution will not serve any purpose.

2. On a perusal of records, I find that Section 308 IPC was, in fact, incorporated in the proceeding by the police on the basis of a purely hypothetical statement. Any way, the parties have CrI.M.C.. No.6329/2014 3 really settled the whole dispute and the complainant has no grievance or complaint now. No doubt, he and the others will not, in any manner, support the prosecution, and the prosecution also cannot, in any manner, improve the case. Thus, it is only appropriate and just that the prosecution be quashed. In the result, the CrI.M.C. is allowed. The Prosecution as against the petitioner herein in S.C. No. 381/2009 before the Additional Sessions Court, (Adhoc)-I, Kasaragod, which now transferred to the long pending register as L.P.C. No. 1/2011, will stand quashed under Section 482 Cr.P.C. Accordingly, the petitioner will stand released from prosecution. Sd/- P. UBAID, JUDGE sd // TRUE COPY // P.A. TO JUDGE

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