

David vs State of Kerala

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Court : Kerala

Decided On : Feb-20-2024

Judge : Honourable Mr. Justice Bechu Kurian Thomas

Appeal No. : Crl.MC/422/2024

Appellant : DAVID

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS TUESDAY, THE 20TH DAY OF FEBRUARY 2024 / 1ST PHALGUNA, 1945 CRL.MC NO. 422 OF 2024 CRIME NO.79/2020 OF PALLITHOTTAM POLICE STATION, KOLLAM IN CC 77/2020 OF JUDICIAL FIRST CLASS MAGISTRATE COURT - III, KOLLAM

PETITIONERS/ACCUSE NOS. 1 TO 4: 1 DAVID AGED 50 YEARS S/O VARGHESE, MUSLIM COLONY VALYA KADA CHERRY , 2 DEVADAS @ YESUDAS AGED 55 YEARS S/O VARGHESE, MUSLIM COLONY VALYA KADA CHERRY, 3 SREEJAN @ SAHAYA JUSTIN AGED 27 YEARS S/O YESUDAS MUSLIM COLONY, VALYA KADA CHERRY , 4

REGAN AGED 35 YEARS S/O REMY, K S/O VARGHESE, FISHER MEN COLONY VALYA KADA CHERRY , BY ADVS. V.I.RAHUL SHIFA LATHEEF ANAS B. JISHA J.S. -:2:- RESPONDENTS/STATE AND DEFACTO COMPLAINANT: 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682031

2 XAVIOUR DAS AGED 64 YEARS S/O LAZAR, HOUSE NUMBER 448, MOOTHAKARA FISHER MEN COLONY, KOLLAM WEST VILLAGE, KOLLAM, PIN - 691006 BY ADV SREEJESH R. OTHER PRESENT: SRI. M.C. ASHI, PUBLIC PROSECUTOR THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 20.02.2024, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: -:3:-

BECHU KURIAN THOMAS, J.

----- Dated this
the 20th day of February, 2024

ORDER

Petitioners have invoked the jurisdiction under Section 482 Cr.P.C to quash all proceedings against them.

2. Petitioners are accused Nos. 1 to 4 in C.C. No.77/2020 on the

files of the Judicial First Class Magistrate Court-III, Kollam, arising out of Crime No.79/2020 of Pallithottam Police Station, registered for the offences under Sections 341, 294(b), 323 and 506(i) r/w Section 34 of the Indian Penal Code, 1860. 2nd respondent is the defacto complainant.

3. According to the prosecution, the accused had, on 02.02.2020, restrained the defacto complainant and abused him, thereafter assaulted him and thereby committed the offences alleged.

4. Heard the learned counsel for the petitioners and the learned counsel for the respondent, apart from the learned Public Prosecutor.

5. The learned counsel for the petitioners submitted that the matter

has been settled and hence the proceedings against the petitioners ought to be quashed. It was also submitted that, considering the nature of offences alleged, no purpose would be served by continuing the proceedings. -:4:-

6. In *Gian Singh v. State of Punjab and Another* [(2012) 10 SCC

303], the Apex Court has held that in appropriate cases, the High Court can take note of the amicable resolution of disputes between the victim and the wrongdoer to put an end to the criminal proceedings. This view was reiterated in *Narinder Singh and Others v. State of Punjab and Another* [(2014) 6 SCC 466] and *Yogendra Yadav and Others v. State of Jharkhand and Another* [(2014) 9 SCC 653].

7. I have perused Annexure-A3 affidavit filed by the 2nd respondent.

The learned Public Prosecutor has submitted that upon verification, it is understood that the affidavit is genuine, and the defacto complainant stands by the contents thereof. I am satisfied that the matter has been settled and no public interest is involved in this case. There is no impediment for granting the prayer for quashing. The continuance of the proceedings will only be an exercise in futility.

8. Accordingly, all proceedings against the petitioners in

C.C. No.77/2020 on the files of the Judicial First Class Magistrate Court-III, Kollam, are quashed. This Crl.M.C is allowed as above. Sd/- BECHU KURIAN THOMAS JUDGE Jka/20.02.24. -:5:- APPENDIX OF CRL.MC 422/2024 PETITIONERS ANNEXURES Annexure A1 CERTIFIED COPY OF THE FIR DATED 02-02-2020 IN CRIME NO.79/2020 OF PALLITHOTTAM, POLICE STATION,KOLLAM. Annexure A2 CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.79/2020 OF PALLITHOTTAM, POLICE STATION,KOLLAM DISTRICT. Annexure A3 AFFIDAVIT DATED 09/11/2023 SWORN BY RESPONDENT NO.2.