

Happy vs State of Kerala

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Court : Kerala

Decided On : Feb-02-2024

Judge : Honourable Mr. Justice Bechu Kurian Thomas

Appeal No. : Crl.MC/547/2024

Appellant : HAPPY

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS FRIDAY, THE 2ND DAY OF FEBRUARY 2024 / 13TH MAGHA, 1945 CRIME NO.312/2018 OF PATHANAPURAM POLICE STATION, KOLLAM AGAINST THE ORDER/JUDGMENT CP 48/2021 OF JUDICIAL MAGISTRATE OF FIRST CLASS -I, PATHANAPURAM PETITIONERS/ACCUSED NOS.6 & 8 : 1 HAPPY, AGED 20 YEARS, S/O SHAJU, RESIDING AT ANAKKOTTU PADINJATTATHIL HOUSE, PATHIRIKKALMURI PATHANAPURAM, KOLLAM RURAL, KERALA INDIA, PIN - 689 695. 2 IJAS MUHAMMED, AGED 25 YEARS S/O KABEER, RESIDING AT V.V MAHALIL, ULLOOR MURIYIL, PATHANAPURAM VILLAGE, KOLLAM, PIN - 689695 BY ADVS.

M.T.SURESHKUMAR MANJUSHA K SREELAKSHMI SABU RESWIN A.
KHADIR RESPONDENT/S:

1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN - 682 031. 2 FAISAL, S/O MAHIN,
MANGODU MANAKKATTUPUZHA, PATHIRICKAL MURAI,
PATHANAPURAM, KOLLAM RURAL, KERALA, INDIA, PIN - 689 695. 3
ALTHAF, AGED 22 YEARS S/O SHIBU, PALLI PADINJATTETHIL
HOUSE, MANKODU P.O, PATHIRICKAL, PATHANAMPURAM
VILLAGE, PUNALUR TALUK, KOLLAM DISTRICT, PIN - 689 695. BY
ADV JOSE ANTONY SRI. NOUSHAD K.A. (PP)

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 02.02.2024, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING: BECHU KURIAN THOMAS, J
..... CrI.M.C.No.547 of 2024
..... Dated this the 2nd 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.6 and 8 in C.P.No.48/2021 on the files

of the Judicial First Class Magistrate Court-III, Punalur, arising out of Crime No.312/2018 of Pathanapuram Police Station, Kollam District, registered for the offences punishable under Sections 143, 147, 148, 341, 294(b), 323, 324 and 308 r/w Section 149 of the Indian Penal Code, 1860. Respondents 2 and 3 are the defacto complainant and injured witness.

3. According to the prosecution, the accused had on 19.02.2018, in

furtherance of their common intention, assaulted the de facto complainant after restraining him and further abused him, and thereby committed the offences alleged.

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

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

has been settled as evident from Annexure-A4 and Annexure-A5 affidavits, 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.

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. It is submitted that as on the date of commission of offence, the

first petitioner i.e., accused No.6 was a minor though no proceedings have been initiated and no report has been filed before the Juvenile Justice Board as against him. The affidavits produced as Annexure-A4 and Annexure-A5 reveal that the dispute has been settled between the parties. The affidavits veracity is not in doubt, as the same has been verified and found genuine. In view of the above, all proceedings against the petitioners pursuant to the FIR in Crime No.312/2018 of Pathanapuram Police Station, can be quashed. Accordingly, all proceedings against the petitioners in C.P.No.48/2021 on the files of the Judicial First Class Magistrate Court-III, Punalur, arising out of Crime No.312/2018 of Pathanapuram Police Station, are quashed. This CrI.M.C is allowed as above. sd/- BECHU KURIAN THOMAS JUDGE AMV/05/02/2024 APPENDIX OF CRL.MC 547/2024 PETITIONER ANNEXURES ANNEXURE A1 TRUE COPY OF THE JUDGEMENT DATED 17-11-2023 IN CRL. MC NO. 9051 OF 2023 BEFORE THIS HON'BLE COURT ANNEXURE A2 TRUE COPY OF THE FIR IN CRIME NO. 312 OF 2018 OF PATHANAPURAM POLICE STATION ANNEXURE A3 TRUE COPY OF

FINAL REPORT NIL IN CP NO. 48 OF 2021 ON THE FILE OF JUDICIAL FIRST-CLASS MAGISTRATE COURT-III, PUNALUR, KOLLAM ANNEXURE A4 TRUE COPY OF THE AFFIDAVIT DULY SIGNED BY THE DE FACTO COMPLAINANT DATED 28-7-2023 ANNEXURE A5 TRUE COPY OF THE AFFIDAVIT DULY SIGNED BY THE 3RD RESPONDENT/INJURED WITNESS DATED 28-7-2023

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