

Reena.M.V vs State of Kerala

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Court : Kerala Orders

Decided On : May-29-2024

Judge : Honourable Mr. Justice Bechu Kurian Thomas

Appeal No. : Crl.MC/4706/2021

Appellant : Reena.M.V

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS WEDNESDAY, THE 29TH DAY OF MAY 2024 / 8TH JYAISHTA, 1946 CRL.MC NO. 4706 OF 2021 CRIME NO.10/2021 OF VANITHA POLICE STATION KANNUR, KANNUR AGAINST THE ORDER DATED IN CC NO.286 OF 2021 OF JUDICIAL MAGISTRATE OF FIRST CLASS -I, KANNUR

PETITIONER/ACCUSED: REENA.M.V AGED 43 YEARS ADVOCATE, W/O. N SHAJI, INDRAPRASTHAM, NALUMUKKU JUNCTION, CHIRAKKAL P.O, KANNUR DISTRICT, 670 011 BY ADV C.LEENA RESPONDENTS/COMPLAINANT & INJURED: 1 STATE OF KERALA

REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM 682 031 2 LEELAMMA SI OF POLICE, VANITHA POLICE STATION, KANNUR 670 004 BY ADV. NOUSHAD K.A. PUBLIC PROSECUTOR THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 29.05.2024, ALONG WITH CRL.MC.6210/2021, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: -:2:-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS WEDNESDAY, THE 29TH DAY OF MAY 2024 / 8TH JYAISHTA, 1946 CRL.MC NO. 6210 OF 2021 CRIME NO.10/2021 OF VANITHA POLICE STATION KANNUR, KANNUR AGAINST THE ORDER DATED IN CC NO.286 OF 2021 OF JUDICIAL MAGISTRATE OF FIRST CLASS -I, KANNUR PETITIONERS/ACCUSED: 1 PREEKALA. K.P. AGED 41 YEARS W/O KRISHNADAS, RESIDING AT B1, 4TH FLOOR, WESTERN CASTLE APARTMENTS, THANA, KANNUR DISTRICT-670012. 2 KRISHNADAS O. AGED 51 YEARS S/O PRABHATH KUSUMAN, RESIDING AT B1, 4TH FLOOR, WESTERN CASTLE APARTMENTS, THANA, KANNUR DISTRICT-670012. BY ADV. C.LEENA RESPONDENTS/COMPLAINANT & INJURED: 1 STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN-682031. 2 LEELAMMA S I OF POLICE, VANITHA POLICE STATION, KANNUR-670002. BY ADV. SREEJA. P PUBLIC PROSECUTOR THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 29.05.2024, ALONG WITH CRL.MC.4706/2021, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: -:3:-

BECHU KURIAN THOMAS, J.

----- Dated this the 29th day of May,

ORDER

Petitioners are the accused in C.C. No.286/2021 on the files of the Judicial First Class Magistrate Court-I, Kannur, which arises out of Crime No.10/2021 of Kannur Town Vanitha Police Station. Petitioner in Crl.M.C.No.4706/2021 is the second accused, while petitioners in Crl.M.C.No.6210/2021 are the first and third accused in the above criminal case.

2. The prosecution alleges that the accused had, on 15.02.2021,

at about 12.30 p.m, came to the Vanitha Police Station, Kannur, and abused the Sub Inspector of Police and after threatening, assaulted her, apart from tearing away the name plate from the uniform of the defacto complainant, and also prevented her from discharging her official duties, thereby committing the offences under Sections 332, 294(b) and 506(1) r/w Section 34 of the Indian Penal Code, 1860.

3. Smt.C.Leena, the learned counsel for the petitioners,

vehemently contended that the entire allegations are false and the FIR itself was registered with malafides. It was submitted that the allegation that inside the police station, the accused had slapped the Sub Inspector of Police is inherently improbable and cannot be taken on its face value. The learned counsel pointed out that when the petitioners had gone the police station to enquire about the complaint filed by the first accused, the Police Officers became agitated on hearing the denial of settlement of the said complaint, as a result of which, the crime was registered. According to the learned counsel, the crime was initiated due to malafides and is totally false.

4. The learned Public Prosecutor, on the other hand, submitted

that the contentions now raised by the petitioners fall within the realm of disputed facts, and this Court cannot, under Section 482 of the Cr.P.C., quash the proceedings on the basis of disputed allegations. It was further submitted that the

uncontroverted allegations in the final report would certainly make out the offences alleged, and therefore, proceedings should not be quashed, as the scope of interference under Section 482 Cr.P.C. with a final report is very limited.

5. In State of Hariyana and Others vs. Bhajan Lal and

Others [1992 Supp (1) SCC 335], it has been observed that if the uncontroverted allegations in the final report do not make out any of the offences alleged, then the proceedings can be quashed. Further, if the allegations are inherently improbable, or the prosecution has been initiated due to malafidies, or even when civil disputes are given the cloak of criminal proceedings the FIR and the final report can be quashed. However, when the allegations fall within the realm of disputed facts, the courts must not exercise the power under Section 482 Cr.P.C. -:5:-

6. In the instant case, though the counsel for the petitioners

vehemently canvassed the proposition that the allegations are inherently improbable, as a person who had filed the complaint has no reason, to slap or attempt to slap a Police Officer. Though the aforesaid contention of the petitioners was impressive, considering the nature of jurisdiction exercised by this Court under Section 482 of Cr.P.C., I am of the view that the aforesaid aspects are to be decided in a trial, and the jurisdiction cannot be invoked to quash the proceedings.

7. Therefore, these petitions under Section 482 of the Cr.P.C. have

no merit, and the same are dismissed. However, during the trial of the proceedings, if the petitioners seek exemption from personal appearance, the learned Magistrate shall consider the same in accordance with the law. These Crl.M.C are dismissed as above. Sd/- BECHU KURIAN THOMAS JUDGE
jka/29.05.24 -:6:- APPENDIX OF CRL.MC 4706/2021 PETITIONER ANNEXURES
ANNEXURE A CERTIFIED COPY OF THE FIRST INFORMATION REPORT
DATED 15-02-2021 IN CRIME NO. ANNEXURE B TRUE COPY OF THE FINAL
REPORT IN CRIME ANNEXURE C TRUE COPY OF WOUND CERTIFICATE OF
PETITIONER. ANNEXURE D TRUE COPY OF COMPLAINT FILED BY
PETITIONER BEFORE JUDICIAL FIRST CLASS MAGISTRATE NO. 1 KANNUR.

-:7:- APPENDIX OF CRL.MC 6210/2021 PETITIONER ANNEXURES

ANNEXURE A

CERTIFIED COPY OF THE FIRST INFORMAT

STATION. ANNEXURE B CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.10/21 OF KANNUR VANITHA POLICE STATION. ANNEXURE C TRUE COPY OF COMPLAINT FILED BY PETITIONER BEFORE 2ND RESPONDENT ON 08.02.2021. ANNEXURE D TRUE COPY OF COMPLAINT FILED BY PETITIONER BEFORE POLICE SUPT.KANNUR ON 15.02.2021 AND ITS RECEIPT.

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