

Shameena vs the State of Kerala

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Court : Kerala

Decided On : May-31-2024

Judge : Honourable Mr. Justice Bechu Kurian Thomas

Appeal No. : Crl.MC/6499/2023

Appellant : Shameena

Respondent : The State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS FRIDAY, THE 31ST DAY OF MAY 2024 / 10TH JYAISHTA, 1946 CRL.MC NO. 6499 OF 2023 CRIME NO.0384/2018 OF THIRUVANANTHAPURAM RURAL POLICE STATION, AGAINST THE ORDER/JUDGMENT DATED IN CC NO.1043 OF 2018 OF JUDICIAL MAGISTRATE OF FIRST CLASS -I,ATTINGAL PETITIONER/ACCUSED : SHAMEENA, AGED 43 YEARS D/O NAJIMA BEEVI, RESIDING AT BISMI, FLAT NO. 6-C, CORDIAL CASILDA, KOCHULLOOR, MEDICAL COLLEGE P.O, THIRUVANANTHAPURAM, PIN - 695 011. BY ADV A.JANI(KOLLAM) RESPONDENT/STATE-DEFACTO COMPLAINANT :
1 THE STATE OF KERALA

KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, COCHIN, PIN - 682 031. 2 SYAM KUMAR, AGED 37 YEARS, S/O SASIDHARAN, RESIDING AT KARTHIKA BHAVAN, SANTHI NAGAR, SASTHAVATTOM, VEILOOR, THIRUVANANTHAPURAM RURAL, THIRUVANANTHAPURAM DISTRICT, PIN - 695 305. SREEJA V.(PP) THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 31.05.2024, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: BECHU KURIAN THOMAS, J CrI.M.C.No.6499 of 2023 Dated this the 31st day of May, 2024

ORDER

Petitioner is the sole accused in C.C.No.1043/2018 on the files of the Judicial First Class Magistrate Court-I, Attingal, arising out of Crime No.384/2018 of Thiruvananthapuram Rural Police Station, for the offences punishable under Section 420 of the Indian Penal Code, 1860.

2. According to the prosecution, the second respondent had booked a

ticket for travel on 12.02.2018 from Mangalore to Attingal in a bus known as SRS bus, and when he tried to board the bus, he was informed that he had no reservation, and the accused falsely informed him that the bus was cancelled and thereby committed the offences alleged.

3. I have heard Adv.Jani A., the learned counsel for the petitioner as well as Smt.Sreeja V., the learned Public Prosecutor. Despite service of notice on the second respondent, there is no appearance.

4. The prosecution alleges that, the accused cheated the de facto

complainant by falsely stating that the bus operated by SRS from Mangalore to Attingal was cancelled. However, a perusal of the statement of witnesses indicates that petitioners staff had stated that the

SRS bus was cancelled on that day. There is neither any statement by any of the witnesses nor any material to indicate that on 13.02.2018, SRS bus had operated from Mangalore to Attingal. In the absence of any material to indicate that the bus had operated between the said destinations on the said date, it cannot be inferred that the petitioner had committed the offence of cheating. The ingredients of the offence of cheating is absent even if the allegations in the final report are uncontroverted.

5. On a perusal of the final report and the statements of witnesses, it is

evident that, the second respondent attempted to convert a possible claim for civil liability into a criminal case. The dispute being at the most civil in nature, no criminal proceedings will lie. Therefore, the proceeding against the petitioner in C.C.No.1043/2018 on the files of the Judicial First Class Magistrate Court-I, Attingal, arising out of Crime No.384/2018 of Thiruvananthapuram Rural Police Station, is an abuse of the process of the court.

6. Accordingly, all proceedings against the petitioner in

C.C.No.1043/2018 on the files of the Judicial First Class Magistrate Court-I, Attingal, arising out of Crime No.384/2018 of Thiruvananthapuram Rural Police Station, are hereby quashed. The Crl.M.C.is allowed. sd/- BECHU KURIAN THOMAS JUDGE

AMV/01/06/2024 APPENDIX OF CRL.MC 6499/2023 PETITIONER ANNEXURES
ANNEXURE A1 CERTIFIED COPY OF FIR IN CRIME NO POLICE STATION
DATED 18/02/2018. ANNEXURE A2 CERTIFIED COPY OF FINAL REPORT IN
CRIME NO POLICE STATION DATED 18/06/2018. ANNEXURE A3 CERTIFIED
COPY OF THE REPORT DATED NIL PRODUCED IN IN CRIME NO 0384/2018.
TRUE COPY

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