

Bijesh vs State of Kerala

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Court : Kerala

Decided On : Feb-26-2024

Judge : Honourable Mr.Justice V.G.Arun

Appeal No. : Crl.MC/8933/2023

Appellant : Bijesh

Respondent : State of Kerala

Judgement :

-1-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE V.G.ARUN MONDAY,
THE 26TH DAY OF FEBRUARY 2024 / 7TH PHALGUNA, 1945 CRL.MC
NO. 8933 OF 2023 CRIME NO.388/2017 OF Feroke Police Station,
Kozhikode AGAINST CC NO.910 OF 2018 OF JUDICIAL MAGISTRATE
OF FIRST CLASS -V,KOZHIKODE PETITIONER/S: BIJESH AGED 35
YEARS S/O BALAKRISHNAN, THOTTAYIL HOUSE, A.R NAGAR (PO)
CHENDAPURAYA, MALAPURAM - 676305., PIN - 676305 BY ADVS.
C.BHASKARAN ARJUN C BHASKAR RESPONDENT/S: 1 STATE OF
KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT
OF KERALA, PIN - 682031 2 SMITHA AL AGED 48 YEARS W/O

MANOJ KUMAR, RESIDING AT LAKSHMI NIVAS HOUSE,
GOVINDAPURAM P.O, KOZHIKODE CITY, KERALA PIN 673016.
OTHER PRESENT: PP IMAM GRIGORIOS KARAT THIS CRIMINAL
MISC. CASE HAVING COME UP FOR ADMISSION ON 26.02.2024,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING: -2-

ORDER

Dated this the 26th day of February, 2024 Petitioner is the accused in Crime No. 388 of 2017 registered at the Feroke Police Station for the offences punishable under Sections 341, 294(b) and 354 of IPC, now pending as C.C.No. 910 of 2018 on the files of the Judicial First Class Magistrate Court - V, Kozhikode. The de facto complainant is arrayed as the 2nd respondent. Annexure A4 affidavit has been filed by the 2nd respondent stating that the dispute, which had compelled her to file the complaint, leading to registration of the crime, has been settled amicably and she has no subsisting grievance against the petitioner.

2. Heard the learned Public Prosecutor also, who, on instructions, submits that no criminal antecedents are reported against the petitioner.

3. Having considered the gravity of the offences alleged,

nature of the injury caused and having perused the affidavit, the contents of which are vouched to be true and voluntary by the -3- learned counsel for the 2nd respondent, I am satisfied that no public interest is involved in this matter and the dispute has been settled amicably. Moreover, in view of the settlement arrived at between the parties, there is no possibility of the criminal proceedings ending in conviction. As such, continuance of the proceedings will amount to an abuse of process of court and hence, in view of the legal position set out by the Honourable Supreme Court in *Madan Mohan Abbot v State of Punjab* [(2008) 4 SCC 582] and *Gian Singh v State of Punjab and Another* [(2012) 10 SCC 303], there is no impediment in granting the relief. In the result, this CrI. M. C is allowed. Annexure A2 Final Report and all proceedings in C. C. No. 910 of 2018 on the files of the Judicial First Class Magistrate Court - V, Kozhikode, are quashed. Pending Interlocutory Applications, if any, shall stand closed. Sd/- V. G. ARUN JUDGE Eb -

4- APPENDIX OF CRL.MC 8933/2023 PETITIONER ANNEXURES Annexure A1 THE CERTIFIED COPY OF FIR IN THE ABOVE CRIME DATED 23/06/2017 Annexure A2 THE CERTIFIED COPY OF THE FINAL REPORT/CHARGE IN C.C. NO. 910/2018 ON THE FILES OF JFCM COURT-V, KOZHIKODE DATED 04/07/2017 Annexure A3 THE CERTIFIED COPY OF THE MEMORANDUM OF EVIDENCE / WITNESS LIST IN C.C. NO. KOZHIKODE DATED 04/07/2017 Annexure A4 THE 2ND RESPONDENT HAS SWORN TO AN AFFIDAVIT PROVING THE FACTUM OF SETTLEMENT IN THE MATTER AND THE SAID AFFIDAVIT DATED 26/09/2023

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