

Binu Ca vs Natarajan

Binu Ca vs Natarajan

SooperKanoon Citation : sooperkanoon.com/1307835

Court : Kerala

Decided On : Feb-26-2024

Judge : Honourable Mr.Justice V.G.Arun

Appeal No. : Crl.MC/1316/2024

Appellant : Binu Ca

Respondent : Natarajan

Judgement :

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 CRIME
NO.334/2013 OF Kollengode Police Station, Palakkad AGAINST THE
ORDER IN CC 1973/2013 OF JUDICIAL MAGISTRATE OF FIRST
CLASS ,CHITTUR PETITIONER(S)/1ST ACCUSED: BINU CA AGED 40
YEARS S/O ANANTHAKRISHNAN, CHALLIYIL VEEDU,
MOOCHAMKUNDU, GOVINDAPURAM POST, PALAKKAD., PIN -
678507 BY ADVS. SAJAN VARGHEESE K. LIJU. M.P
RESPONDENT(S)/DEFACTO COMPLAINANT & STATE:

1 NATARAJAN AGED 86 YEARS S/O LATE VELUCHAMI MUDALIAR, MOOCHAMKUNDU, GOVINDAPURAM PO, MUTHALAMADA, PALAKKAD., PIN - 678507 2 KANNAMMA AGED 76 YEARS W/O NATARAJAN, MOOCHAMKUNDU, GOVINDAPURAM PO, MUTHALAMADA, PALAKKAD., PIN - 678507 3 GANESH KUMAR AGED 43 YEARS S/O NATARAJAN, MOOCHAMKUNDU, GOVINDAPURAM PO, MUTHALAMADA, PALAKKAD., PIN - 678507 4 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, HIGH COURT OF KERALA, ERNAKULAM., PIN - 682031

BY ADV SUNIL KUMAR A.G SR. PP SRI. K.P.HARISH THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 26.02.2024, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: -2-

ORDER

Petitioner is the 1st accused in Crime No.334 of 2013 registered at the Kollengode Police Station for the offences punishable under Sections 447, 341 294 (b), 323 and 324, r/w Section 34 of IPC, now pending as C.C.No.1973 of 2013 on the files of the Judicial First Class Magistrate Court, Chittur. The de facto complainant and injured witnesses are arrayed as respondents 1 to 3. Annexures 4 to 6 affidavits have been filed by the respondents 1 to 3 stating that the dispute, which had compelled them to file the complaint, leading to registration of the crime, has been settled amicably and they have 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. It is seen that the petitioner was convicted by the trial court

for the offences as per Annexure 2 judgment. In the appeal filed by the petitioner, the appellate court found that there was no identification of the petitioner / accused by PW1 / defacto -3- complainant. Hence, the Court was of the opinion that an opportunity may be given to the prosecution to prove the identity of the petitioner

and for that purpose, the conviction and sentence of the trial court was set aside and the case remanded for affording an opportunity to the prosecution to adduce further evidence. At that stage, the dispute was settled between the petitioner and respondents 1 to 3. In so far as the conviction entered by the trial court stands set aside by the appellate court, there is no impediment in quashing the proceedings based on the settlement.

4. Having considered the gravity of the offences alleged, nature

of the injury caused and having perused the affidavits, the contents of which are vouched to be true and voluntary by the learned Counsel for the respondents 1 to 3, 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 -4- Abbot v State of Punjab* [(2008) 4 SCC 582] and *Gian Singh v State of Punjab and Another* [(2012) 10 SCC 303], the relief ought to be granted. In the result, this CrI.M.C is allowed. Annexure 1 charge and all proceedings in C.C.No.1973 of 2013 on the files of the Judicial First Class Magistrate Court, Chittur, are quashed. Sd/- V.G.ARUN JUDGE uu 26.02.2024 -5- APPENDIX OF CRL.MC 1316/2024 PETITIONER ANNEXURES Annexure 1 CERTIFIED COPY OF THE COURT CHARGE IN CC NO.1973/2013 ON THE FILE OF JUDICIAL FIRST CLASS MAGISTRATE COURT, CHITTUR DATED 10-08-2016. Annexure 2 TRUE COPY OF THE JUDGMENT DATED 09.07.2020 IN CC NO.1973/2013 ON THE FILE OF JUDICIAL FIRST CLASS MAGISTRATE COURT, CHITTUR. Annexure 3 TRUE COPY OF THE JUDGMENT DATED 25.02.2023 PASSED BY THE SESSIONS COURT, PALAKKAD IN CRL A NO.143/2020 Annexure 4 ORIGINAL OF THE AFFIDAVIT DATED 03-02- 2024 EXECUTED BY THE 1ST RESPONDENT/DEFACTO COMPLAINANT Annexure 5 ORIGINAL OF THE AFFIDAVIT DATED 03-02- 2024 EXECUTED BY THE 2ND RESPONDENT/INJURED. Annexure 6 ORIGINAL OF THE AFFIDAVIT DATED 03-02- 2024 EXECUTED BY THE 3RD RESPONDENT/INJURED