

Sivan vs State of Kerala

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Court : Kerala Orders

Decided On : Mar-04-2024

Judge : Honourable Mr. Justice Bechu Kurian Thomas

Appeal No. : Crl.MC/2000/2024

Appellant : SIVAN

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS MONDAY, THE 4TH DAY OF MARCH 2024 / 14TH PHALGUNA, 1945 CRIME NO.978/2023 OF Kallambalam Police Station, Thiruvananthapuram CC NO.822 OF 2023 OF JUDICIAL MAGISTRATE OF FIRST CLASS - III, ATTINGAL (TEMPORARY) PETITIONER/ ACCUSED : SIVAN AGED 35 YEARS S/O SIVANANDAN, SUBHA NIVAS, MANNANTE POIKA, MAVINMOODU, CHEMMARUTHI VILLAGE, THIRUVANANTHAPURAM RURAL, VARKALA TALUK, PIN - 695141 BY ADVS. MINI GANGADHARAN N.SHIVA PRASADAN PRIYA M. N.C.SAJUNAM RESPONDENTS : 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF

KERALA, PIN - 682031 2 PRINCE AGED 50 YEARS S/O RAMESAN, ANANDU BHAVAN, MANNANTE POIKA, MAVINMOODU, CHEMMARUTHI VILLAGE, THIRUVANANTHAPURAM RURAL, VARKALA TALUK, PIN - 695 141 SRI. T.R. RANJITH, PUBLIC PROSECUTOR THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 04.03.2024, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

BECHU KURIAN THOMAS, J.

Crl.M.C.No.2000 of 2024 Dated this the 4th day of March, 2024

ORDER

Petitioner seeks to challenge the proceedings in C.C.No.822 of 2023 on the files of the Judicial First Class Magistrate's Court-III, Attingal. The said case arose out of FIR No.978 of 2023 of Kallambalam Police Station, Thiruvananthapuram.

2. According to the prosecution, the accused had on 05.06.2023

assaulted the defacto complainant after abusing him and thereby committed the offences under Sections 294(b), 323, 324 and 506 r/w Section 34 of the Indian Penal Code, 1860.

3. Smt. Mini Gangadharan, the learned counsel for the petitioner contended that the prosecution allegations are totally false and Crime No.978 of 2023 is only a counterblast to Crime No.958 of 2023 and the

petitioner has been falsely roped in as an accused. According to the learned counsel, the injuries were all sustained by the petitioner, who was actually the victim and the police had, on the basis of a false complaint by the 2nd respondent, registered the FIR and filed the final report. According to the learned counsel, even if the entire allegations are assumed to be accepted, the same would not make out any offence against the petitioner and therefore the complaint is ill-motivated and the proceedings are liable to be quashed.

4. I have heard Sri.T.R.Ranjith, the learned Public Prosecutor as well.

5. On a perusal of Annexure-A6 final report filed in Crime No.978

of 2023 which is now pending as C.C.No.822 of 2023 on the files of the Judicial First Class Magistrate's Court-III, Attingal, it is noticed that the allegations are all factual in nature which requires appreciation of evidence. Apart from the above, Crime No.958 of 2023 is also seem to have been registered before the same police station wherein the petitioner is the defacto complainant. It is thus evident that these two crimes are case and counter case and therefore this Court under Section 482 of Cr.P.C. cannot decide the factual disputes. Those are all matters for the trial court to decide.

6. Though the learned counsel for the petitioner prayed for a

direction to dispose of C.C.No.822 of 2023 on the files of the Judicial First Class Magistrate's Court-III, Attingal, in a time bound manner, I am of the view that the Supreme Court has time and again observed that constitutional courts must refrain from directing cases to be disposed of by granting out of turn priority.

In view of the above, the said request is also declined. Accordingly, I find no merit in this Crl.M.C.and the same is dismissed. Sd/- BECHU KURIAN THOMAS, JUDGE RKM APPENDIX OF CRL.MC 2000/2024 PETITIONER'S ANNEXURES :

Annexure A1

THE TRUE CERTIFIED COPY OF FIR NO:Annexure A2

NIL DELETING SECTION 34 I.P.C Annexure A4 THE TRUE CERTIFIED COPY OF PROPERTY LIST DATED 19.06.2023 Annexure A5 THE TRUE COPY OF PROPERTY LIST DATED 17.06.2023 PRODUCED BY POLICE IN CRIME NO: Annexure A6 THE TRUE COPY OF CHARGE-SHEET IN FIR NO: 22.07.2023 Annexure A7 THE REPORT TO THE COURT DATED NIL DELETING SECTION 354 OF THE I.P.C FROM FIR NO: Annexure A8 THE TRUE COPIES OF RECORDS OF

HOSPITALIZATION DATED 15.06.2023 AFTER HIS FORMER CONSULTATION DATED 24.02.2022 AND CONSULTATION DATED 16.06.2023 AND CERTIFIED

COPY OF TREATMENT CERTIFICATE ISSUED FROM GOVERNMENT
MEDICAL COLLEGE HOSPITAL, KOLLAM

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