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Bineesh vs State of Kerala

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Court : Kerala

Decided On : Feb-01-2024

Judge : Honourable Mr. Justice Bechu Kurian Thomas

Appeal No. : Crl.MC/11032/2023

Appellant : Bineesh

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS THURSDAY, THE 1ST DAY OF FEBRUARY 2024 / 12TH MAGHA, 1945 CRIME NO.1384/2021 OF KADAKKAL POLICE STATION, KOLLAM AGAINST THE ORDER/JUDGMENT CP 27/2022 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, KADAKKAL PETITIONER/ACCUSED NO.1 TO 4:

1 BINEESH, AGED 42 YEARS S/O VIJAYAN, V.J.BHAVAN, KUTTIKKAD, KUTTIKKAD P.O., KADDAKKAL VILLAGE, PIN - 691 536. 2 SHAJI @ CHEMBAN SHAJI AGED 49 YEARS S/O ARAMAM, ARAMAM VEETIL, KOTTAPPURAM , KOTTAPPURAM P.O.,

ELAMPAZHANNOOR, KADAKKAL VILLAGE, PIN - 691 534. 3 ABHEESH @ABHILASH, AGED 33 YEARS S/O ASHOK KUMAR, AKHILA BHAVAN VARAYARA, EDATHARA P.O , KADAKKAL VILLAGE - 691 536. 4 NIJI, AGED 39 YEARS S/O CHANDRAN, NIJI BHAVAN, KALYANIMUKKU, VAYYANAM P.O ITTIVA VILLAGE, PIN - 691 533. BY ADV P.ANOOP (MULAVANA)

RESPONDENTS/STATE/DEFACTO COMPLAINANT : 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682 031. 2 ANEES, AGED 32 YEARS S/O SHAHUL HAMEED, ANEES MANZIL, THULASIMUKKU, KUMMIL, KUMMIL P.O, KOTTARAKKARA TALUK, KOLLAM - 691 536. SRI. M.C. ASHI (PP)/ SMT. K. REEHA KHADER (FOR RESPONDENT) THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 01.02.2024, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: BECHU KURIAN THOMAS, J ..... Crl.M.C.No.11032 of 2023 ..... Dated this the 1st day of February, 2024

ORDER

Petitioners have invoked the jurisdiction under Section 482 Cr.P.C to quash all proceedings against them.

2. Petitioners are accused Nos.1 to 4 in C.P.No.27/2022 on the files of

the Judicial First Class Magistrate Court, Kadakkal arising out of Crime No.1384/2021 of Kadakkal Police Station, registered for the offences punishable under Sections 294(b), 341, 324, 308, 506(i) r/w Section 34 of the Indian Penal Code, 1860. The second respondent is the defacto complainant.

3. According to the prosecution, due to the previous enmity, accused on 26.09.2021 abused the de facto complainant, attacked him with an iron rod and hit his head with a stone, and thereby committed the offences alleged.

4. Heard the learned counsel for the petitioners and the learned counsel for the respondent, apart from the learned Public Prosecutor.

5. The learned counsel for the petitioners submitted that the matter

has been settled and hence the proceedings against the petitioners ought to be quashed. It was also submitted that, considering the nature of offences alleged, no purpose would be served by continuing the proceedings.

6. In Gian Singh v. State of Punjab and Another [(2012) 10 SCC 303],

the Apex Court has held that in appropriate cases, the High Court can take note of the amicable resolution of disputes between the victim and the wrongdoer to put an end to the criminal proceedings. This view was reiterated in Narinder Singh and Others v. State of Punjab and Another [(2014) 6 SCC 466] and Yogendra Yadav and Others v. State of Jharkhand and Another [(2014) 9 SCC 653].

7. I have perused Annexure-A2 affidavit filed by the 2 nd respondent.

The learned Public Prosecutor has submitted that upon verification, it is understood that the affidavit is genuine, and the de facto complainant stands by the contents thereof. I am satisfied that the matter has been settled and no public interest is involved in this case. There is no impediment for granting the prayer for quashing. The continuance of the proceedings will only be an exercise in futility.

8. Though the learned Public Prosecutor pointed out that the accused

is involved in ten other crimes, I am of the view that considering the nature of allegations in the present crime and the settlement arrived at between the parties, no purpose would be achieved by continuing the prosecution. Accordingly, all proceedings against the petitioners in C.P.No.27/2022 on the files of the Judicial First Class Magistrate Court, Kadakkal, are quashed. This Crl.M.C is allowed as above. sd/- BECHU KURIAN THOMAS JUDGE AMV/02/02/2024 APPENDIX OF CRL.MC 11032/2023 PETITIONER ANNEXURES ANNEXURE A1 A TRUE COPY OF THE FINAL REPORT IN CRIME

NO. 1384/2021 OF KADAKKAL POLICE STATION, KOLLAM DISTRICT PENDING BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT KADAKKAL, KOLLAM DISTRICT AS C.P.NO.27/2022 ANNEXURE A2 SECOND RESPONDENT AFFIDAVIT DATED 01.12.2023 TRUE COPY

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