

Vishnu vs State of Kerala

Vishnu vs State of Kerala

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Court : Kerala

Decided On : Mar-27-2023

Judge : Honourable Mr. Justice Bechu Kurian Thomas

Appeal No. : Crl.MC/487/2023

Appellant : Vishnu

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS MONDAY, THE 27TH DAY OF MARCH 2023 / 6TH CHAITHRA, 1945 CRL.MC NO. 487 OF 2023 SC 1039/2022 OF THE SESSIONS COURT, KOLLAM CRIME NO.1191 OF 2012 OF PATHANAPURAM POLICE STATION, KOLLAM

PETITIONERS/ ACCUSED NO.4, 1 TO 3, 5 TO 8, AND 10 TO 12 : 1 VISHNU AGED 34 YEARS, S/O SIVARAJAN, VISHNU BHAVAN, PATHANAPURAM VILLAGE, MANJANOOR MURIYIL, ADAMKODE, PIN - 695 102 2 LIJU, AGED 35 YEARS, S/O LAMBODHARAN, LIJU BHAVAN, PATHANAPURAM VILLAGE, MANJANOORR MURIYIL,

ADAMKODE, PIN - 695 102 3 ANU MOHANAN, AGED 32 YEARS, S/O MOHANAN, MANU BHAVAN, PATHANAPURAM VILLAGE, MANJANOOR MURIYIL, ADAMKODE, PIN - 695 102

4 PADMA GIREESAN @ KANNAN, AGED 31 YEARS, S/O SIVADASAN, THONNIKUZHI KIZHAKKEKARA VEEDU, 5 SUDHEESH, AGED 34 YEARS, S/O THULASEEDHARAN ACHARI, CHATTARUTHOTTATHIL VEEDU, 6 SHINU @ OMANAKUTTAN, AGED 41 YEARS, S/O VIJAYAN, CHATTARUTHOTTATHIL MELETHIL VEEDU, 7 RATHEESH @ THAMPI, AGED 39 YEARS, S/O THANKAPPAN, MUKULAMPURATH VEETIL, 8 ATHUL @ CHIKKU, AGED 28 YEARS, S/O MANGALAN, ANCHAL BHAVAN, 9 SHAIJU, AGED 32 YEARS, S/O SUGATHAN, SHINY BHAVAN, 10 SURESH KUMAR, AGED 44 YEARS, S/O SUBADRA, KUZHIVILA KIZHAKKETHIL VEEDU, ADAMCODE - 695 102

11 AJEESH @ KOCHUMON, AGED 30 YEARS, MELEMANNIL VEEDU, PATHANAPURAM VILLAGE, MANJANOOR MURIYIL, ADAMCODE, PIN - 695 102 BY ADVS. S.RAJEEV V.VINAY M.S.ANEER SARATH K.P. PRERITH PHILIP JOSEPH ANILKUMAR C.R. RESPONDENTS/ STATE/ DEFACTO COMPLAINANT : 1 STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682 031 2 SHAJAHAN, AGED 58 YEARS, S/O IBRAHIM RAWUTHER, SHAN MANZHIL, CHELLAKODE, MANCHALLOOR PATHANAPURAM, KOLLAM DISTRICT - 689 695 3 MOHAMMED RAFI, AGED 27 YEARS, S/O SALIM, RAFI MANZIL, KALLOORAKADAVU, MANCHILLOOR, PATHANAPURAM, KOLLAM DISTRICT - 689 695 4 MOHAMMED ASHBINSHA, AGED 28 YEARS, S/O SHAJAHAN, SHAN MANZIL, CHELLAKOD, MANCHALLOOR, PATHANAPURAM, KOLLAM DISTRICT - 689 695

BY ADV ANAND KALYANAKRISHNAN BY SRI.NOUSHAD K.A., PUBLIC PROSECUTOR THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 27.03.2023, ALONG WITH CrI.MC.509/2023, THE COURT ON

THE SAME DAY PASSED THE FOLLOWING :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS
MONDAY, THE 27TH DAY OF MARCH 2023 / 6TH CHAITHRA, 1945 CRL.MC
NO. 509 OF 2023 LP 54/2021 OF JUDICIAL MAGISTRATE OF FIRST CLASS - I,
PATHANAPURAM PETITIONER : SREERAJ, AGED 36 YEARS, S/O
SIVARAJAN, SREERAJ BHAVAN, ADAMCODE - 695 102 BY ADVS. S.RAJEEV
V.VINAY M.S.ANEER SARATH K.P. PRERITH PHILIP JOSEPH ANILKUMAR
C.R. RESPONDENTS/ STATE/ DEFACTO COMPLAINANT : 1 STATE OF
KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, PIN - 682 031

2 SHAJAHAN, AGED 58 YEARS, S/O IBRAHIM RAWUTHER, SHAN MANZHIL,
CHELLAKODE, MANCHALLOOR, PATHANAPURAM, KOLLAM DISTRICT - 689
695 3 MOHAMMED RAF, AGED 27 YEARS, S/O SALIM, RAFI MANZIL,
KALLOORAKADAVU, MANCHILLOOR, PATHANAPURAM, KOLLAM DISTRICT -
689 695 4 MOHAMMED ASHBINSHA, AGED 28 YEARS, S/O SHAJAHAN, SHAN
MANZIL, CHELLAKOD, MANCHALLOOR, PATHANAPURAM, KOLLAM
DISTRICT - 689 695

BY SMT.SEETHA S., PUBLIC PROSECUTOR BY ADV ANAND
KALYANAKRISHNAN THIS CRIMINAL MISC. CASE HAVING COME UP FOR
ADMISSION ON 27.03.2023, ALONG WITH CrI.MC.487/2023, THE COURT ON
THE SAME DAY PASSED THE FOLLOWING:

BECHU KURIAN THOMAS, J.

----- CrI.M.C.No.487 of 2023 & CrI.M.C.No.509 of 2023
----- Dated this the 27th day of March, 2023

ORDER

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

2. Petitioners in Crl.M.C.No.487/2022 are accused Nos.4, 1 to 3, 5

to 8 and 10 to 12 in S.C.No.1039/2022 on the files of the Sessions Court, Kollam. The aforesaid case arose from Crime No.1191/2012 of Pathanapuram Police Station. Petitioner in Crl.M.C.No.509/2023 is the 9th accused in the above crime. However, since during the committal proceedings, petitioner in Crl.M.C.No.509/2023 had absconded, the case against him was transferred to the Long Pending Register as L.P.No.54/2021 on the files of the Judicial First Class Magistrate's Court-I, Pathanapuram. Since petitioners in both these petitions are accused in the same Crime, the petitions are heard together. The offences alleged against the petitioners are under Sections 143, 147, 323, 332 and 294(b) r/w Section 149 of the Indian Penal Code, 1860. 2nd respondent in both cases is the defacto complainant and respondents 3 and 4 are the injured witnesses.

3. Heard the learned counsel for the petitioners and the learned counsel for the respondents, apart from the learned Public Prosecutor.

4. 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.

5. 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].

6. I have perused Annexure III to Annexure V affidavits filed by

respondents 2 to 4. The learned Public Prosecutor has submitted that upon verification, it is understood that the affidavits are genuine, and the defacto complainant and the other deponents stand 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. On a perusal of the wound certificate as well as the nature of allegations, I am satisfied that despite Section 333 IPC having been alleged against the petitioners, no grievous injury is inflicted. Further, the public servant has retired from service and has also filed the aforementioned affidavit.

7. Accordingly, all proceedings against accused Nos.4, 1 to 3, 5 to

8 and 10 to 12 in S.C.No.1039/2022 on the files of the Sessions Court, Kollam and 9th accused in L.P.No.54/2021 on the files of the Judicial First Class Magistrate's Court-I, Pathanapuram are quashed. These criminal miscellaneous cases are allowed as above. Sd/- BECHU KURIAN THOMAS, JUDGE RKM APPENDIX OF CRL.MC 487/2023 PETITIONERS' ANNEXURES : Annexure I THE TRUE COPY OF THE FIR ALONG WITH FIS IN CRIME NO 1191/2012 OF PATHANAPURAM POLICE STATION Annexure II THE CERTIFIED COPY OF THE FINAL REPORT IN

CRIME NO 1191/2012 OF PATHANAPURAM POLICE STATION NOW PENDING AS SC NO 1039/2022 ON THE FILES OF DISTRICT & SESSIONS COURT, KOLLAM

Annexure III THE NOTARIZED AFFIDAVIT SWORN BY THE 2ND Annexure IV THE NOTARIZED AFFIDAVIT SWORN BY THE 3RD Annexure V THE NOTARIZED AFFIDAVIT SWORN BY THE 4TH APPENDIX OF CRL.MC 509/2023 PETITIONER'S ANNEXURES : Annexure I THE TRUE COPY OF THE FIR ALONG WITH FIS IN CRIME NO 1191/2012 OF PATHANAPURAM POLICE STATION Annexure II THE TRUE COPY OF THE FINAL REPORT IN CRIME

NO 1191/2012 OF PATHANAPURAM POLICE STATION NOW PENDING AS L.P NO 54/2021 ON THE FILES OF JUDICIAL FIRST CLASS MAGISTRATE COURT

PATHANAPURAM Annexure III THE NOTARIZED AFFIDAVIT SWORN BY THE
2ND Annexure IV THE NOTARIZED AFFIDAVIT SWORN BY THE 3RD Annexure
V THE NOTARIZED AFFIDAVIT SWORN BY THE 4TH

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