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Martin P.J. vs Martin

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Court : Kerala Orders

Decided On : Jul-20-2023

Judge : Honourable Mr. Justice a. Badharudeen

Appeal No. : Crl.MC/3984/2017

Appellant : Martin P.J.

Respondent : Martin

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A. BADHARUDEEN THURSDAY, THE 20TH DAY OF JULY 2023 / 29TH ASHADHA, 1945 CRL.MC NO. 3984 OF 2017 AGAINST C.C.NO.1678/2015 ON THE FILE OF JUDICIAL FIRST CLASS MAGISTRATE COURT, ANGAMALY ARISING OUT OF CRIME NO.3280/2014 OF ANGAMALY POLICE STATION, ERNAKULAM DISTRICT PETITIONERS/ACCUSED:

1 MARTIN P.J. AGED 54 YEARS, S/O.JOSEPH, PADAYATTIL HOUSE, VENGOOR P.O, ANGAMALY, ERNAKULAM DISTRICT, PIN-683 572 2 TOMY AGED 60 YEARS, S/O.JOSEPH, PADAYATTIL HOUSE, VENGOOR P.O, ANGAMALY, ERNAKULAM DISTRICT, PIN-683 572 3

GOPI AGED 60 YEARS, S/O.VAYARONI, PARADATH HOUSE, LAKSHAMVEEDU COLONY P.O, VENGOOR P.O, ANGAMALY, 4 BABU AGED 50 YEARS, S/O.VAYARONI, PARADATH HOUSE, LAKSHAMVEEDU COLONY P.O, VENGOOR P.O, ANGAMALY, 5 VIJAYAN AGED 51 YEARS, S/O.AYYAPPAN, CHERAMBILLI HOUSE, LAKSHAMVEEDU COLONY P.O, VENGOOR P.O, ANGAMALY, BY ADV SRI.DINESH MATHEW J.MURICKEN

RESPONDENTS/DEFACTO COMPLAINANT & STATE: 1 MARTIN AGED ABOUT 55 YEARS, S/O.MATHEW, KOTTACKAL HOUSE, CHURCH NAGAR, ANGAMALY P.O, 2 STATE OF KERALA REP. PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM BY ADV SRI.O.S.RAMANUNNI - R1 SRI. P.G.MANU - SR PP THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 20.07.2023, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

Dated this the 20th day of July, 2023 This petition has been filed under Section 482 of the Code of Criminal Procedure to quash Annexure.A2 Final Report generated from Crime No.3280/2014 of Angamaly Police Station now pending as C.C. No.1678/2015 on the files of Judicial First Class Magistrate Court, Angamaly.

2. Heard the learned counsel for the petitioners

as well as the learned Public Prosecutor and also the learned counsel appearing for the defacto complainant/ 1st respondent. Perused the relevant documents placed by the learned counsel for the petitioners and Annexure- A2 Final Report sought to be quashed.

3. In this matter, crime was registered vide

Crime No.3280/2014 on the allegation that at about 12.00 noon on 21.12.2014, accused Nos. 1 to 5 formed into an unlawful assembly with knowledge that they are all members of the said assembly and thereafter they have

wrongfully restrained, criminally intimidated and caused hurt to the defacto complainant. It is also alleged that the accused/petitioners herein pull down the name board fixed in front of the shop possessed by the defacto complainant. After investigation, the Investigating Officer filed Final Report on the finding that the accused/petitioners herein committed the offences punishable under Sections 143, 147, 341, 323, 324, 506(i), 427 read with 149 of IPC.

4. The learned counsel for the petitioners would

submit that the alleged occurrence was happened at the property owned by the 1st petitioner who is the landlord of the property and the defacto complainant/1st respondent is the tenant therein. According to him, as per Annexure.A3 dated 15.01.2015, the Municipal Secretary, Angamaly directed the 1st petitioner to demolish the illegal construction made at the place of occurrence. Thereafter, the 1st petitioner felt difficulty in removing the illegal construction and on his application, the Municipal Secretary had ordered police protection to the 1st petitioner to demolish the same as per Annexure.A4 dated 23.03.2017. The sum and substance of the arguments

rendered by the learned counsel for the petitioners is that since the 1st petitioner being the landlord removed the illegal construction acting on Annexures.A3 and A4, the offences alleged to be committed by the petitioners shall not stand and therefore Annexure-A2 Final Report must fail.

5. The learned Public Prosecutor would submit that

since the date of occurrence was prior to Annexures.A3 and A4, there is no reason to hold that the 1st petitioner removied the illegal construction on the date of occurrence and the occurrence narrated in the Final Report is the outcome of action based on Annexures.A3 and A4. Therefore, the matter shall go for trial since sufficient materials are there

to proceed with the trial.

6. Appraising the rival contentions, the date of

occurrence is at 12.00 noon on 21.12.2014 and Annexures.A3 and A4 are orders issued by the Municipality as on 15.01.2015 and 23.03.2017 respectively. Therefore, on no stretch of imagination this Court could justify the action of the petitioners acting on Annexures.A3 and A4 connecting the occurrence on 21.12.2014, an occurrence

before generation and issuance of Annexures.A3 and A4.

7. Even though the learned counsel for the

petitioners submitted that the matter is a civil dispute in between the landlord and tenant, the available materials including the statements of the witnesses would suggest that there are sufficient materials in this crime to proceed with trial. Therefore, this Court is not in a position to quash Annexure-A2 Final Report. Therefore, the matter shall go for trial and as such the prayer to quash Annexure-A2 Final Report is found to be unsustainable. In the result, this Crl.M.C. stands dismissed with liberty to the petitioners to defend the case, in accordance with the law.

Sd/- A. BADHARUDEEN SK JUDGE APPENDIX OF CRL.MC 3984/2017 PETITIONERS' ANNEXURES : ANNEXURE A1 TRUE COPY OF THE FIRST INFORMATION REPORT IN CRIME NO.3280/2014 OF ANGAMALY POLICE STATION DATED 21.12.2014 ANNEXURE A2 TRUE COPY OF THE FINAL REPORT IN CC NO.1678/2015 ON THE FILE OF JUDICIAL FIRST CLASS MAGISTRATE COURT, ANGAMALY DATED 12.01.2015 ANNEXURE A3 TRUE COPY OF THE NOTICE ISSUED FROM THE ANGAMALY MUNICIPALITY TO THE 1ST PETITIONER DATED 15.01.2015 ANNEXURE A4 TRUE COPY OF THE NOTICE ISSUED FROM THE ANGAMALY MUNICIPALITY TO THE SUB INSPECTOR OF POLICE, ANGAMALY POLICE STATION DATED 23.03.2017 RESPONDENTS' EXHIBITS: NIL

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