

Sreedevi vs State of Kerala

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Court : Kerala

Decided On : Jun-01-2023

Judge : Honourable Dr. Justice Kauser Edappagath

Appeal No. : Crl.MC/4916/2022

Appellant : Sreedevi

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH
THURSDAY, THE 1ST DAY OF JUNE 2023 / 11TH JYAISHTA, 1945
CRIME NO.813/2017 OF KAREELAKULANGARA POLICE STATION,
ALAPPUZHA PETITIONER/ACCUSED NO.2: SREEDEVI, AGED 38
YEARS WIFE OF VENUGOPAL, PUNNAPARAMBIL VEEDU,
NADUVATTOM MURI, PALLIPPAD VILLAGE, ALAPPUZHA DISTRICT-
690512, PIN - 690512 BY ADV S.SANAL KUMAR
RESPONDENTS/STATE & DE FACTO COMPLAINANT:

1 STATE OF KERALA REPRESENTED BY THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM - 682 031. 2
RAMAKRISHNAN NAIR SON OF PARAMESWARAN NAIR, AMBADY,

CHEPPAD PANCHAYAT, WARD NO.1, CHEPPAD VILLAGE, PIN - 690507 BY ADVS. R.T.PRADEEP K.C.HARISH(K/000788/2017), SMT.S.REKHA, SR.P.P. THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 01.06.2023, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

This CrI.M.C. has been filed by the accused No.2 in C.C.No.531 of 2019 on the files of the Judicial First Class Magistrate Court-I, Haripad (for short 'the court below') to quash all further proceedings against her invoking Section 482 of Cr.P.C.

2. The petitioner is the 2nd accused. The 2nd respondent is the de facto complainant. The 1st accused is the husband of the 2nd accused/petitioner. The accused and the de facto complainant are neighbours.

3. Both the accused started construction of a building in their

property. To obtain a building permit for the said property, no objection certificate of the 2nd respondent, who is a close neighbour, was necessary. According to the de facto complainant, he did not give any consent. However, the accused produced a consent letter before the local authority forging his signature as well as the signature of another neighbour namely, Noorjahan. Based on the complaint of the de facto complainant, the crime was registered. After investigation final report was filed. The court below took cognizance of the offences under Sections 465, 471 r/w 34 of IPC against both the accused.

4. I have heard Sri.Sanal Kumar, the learned counsel for the petitioner, Sri.R.T.Pradeep, the learned counsel for the 2 nd respondent and Smt.S.Rekha, the learned Senior Public Prosecutor.

5. The learned counsel for the petitioner submitted that even if

the entire allegations in the FIS together with the materials collected during the investigation are believed in toto, no offences under Sections 465 and 471 of IPC

are made out against the petitioner. On the other hand, the learned counsel for the 2 nd respondent as well as the learned Public Prosecutor submitted that the building was constructed in the joint property belonging to both the accused, there are prima facie materials to show the involvement of the petitioner in the crime and when a prima facie case is established, the jurisdiction vested with this Court under Section 482 of Cr.P.C cannot be invoked.

6. As stated already, the accused, the second respondent and

Noorjahan mentioned above are neighbours. The final report would show that both the accused obtained a building permit from the local authority to construct a building in their property. It is also seen from the records that permit was obtained on producing the consent letter given by the 2nd respondent as well as Noorjahan. The learned counsel

for the 2nd respondent made available to me the copy of the consent letter as well as the copy of the FSL report. In the consent letter, the signature of the 2nd respondent as well as Noorjahan is seen. However, the FSL report makes it clear that the signatures found in the consent letter is not that of the 2nd respondent or Noorjahan. Thus there is prima facie material on record to show the forgery. However, the crucial question is whether the petitioner is in any way connected with the alleged crime.

7. The learned counsel for the 2nd respondent submitted that

the building was constructed in the land belonging to both the accused and the application for building permit was also signed and submitted by both the accused and thus it has to be presumed that the petitioner has knowledge about the forgery made in the consent letter. Annexure- A1 is the FIS given by the 2nd respondent. I went through it. The entire allegations therein are against the accused No.1 alone. It is specifically stated that the accused No.1 in collusion with the Panchayath authorities, forged the signature of the 2nd respondent as well as Noorjahan. There is no allegation that the petitioner has any role in the said forgery. Annexure-A2 is the final report. The statement of two

other neighbours, the document writer, who prepared the consent letter, as well as the Engineer of the Municipality form part of Annexure-A2. Two neighbours (CW2 and CW3) specifically stated that it was the accused No.1, who approached them seeking consent letter. The document writer, CW4, also specifically stated that he prepared the consent letter at the instruction of the accused No.1. In the statement of the witnesses, there is no allegation against the petitioner. In short, there are absolutely no materials on record to show any involvement of the petitioner in the alleged forgery, though there are materials to proceed against the accused No.1.

For the reasons stated above, I am of the view that the further proceedings against the petitioner would be an abuse of process of law. Accordingly, all further proceedings in C.C.No.531 of 2019 on the files of the Judicial First Class Magistrate Court-I, Haripad as against the petitioner alone is hereby quashed.

This CrI.M.C. is allowed. Sd/- DR.KAUSER EDAPPAGATH, JUDGE AS
APPENDIX OF CRL.MC 4916/2022 PETITIONER'S ANNEXURES:
ANNEXUREA1 COPY OF THE FIRST INFORMATION REPORT IN CRIME NO.
813/2017 OF THE KAREEYILAKULANGARA POLICE STATION DATED
19.7.2017 ANNEXUREA2 CERTIFIED COPY OF THE FINAL REPORT IN CRIME
NO. 813/2017 OF THE KAREEYILAKULANGARA POLICE STATION

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