

Divin vs State of Kerala

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Court : Kerala

Decided On : Dec-08-2023

Judge : Honourable Mr. Justice Gopinath P.

Appeal No. : Crl.MC/6042/2023

Appellant : DIVIN

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P. FRIDAY, THE 8TH DAY OF DECEMBER 2023 / 17TH AGRAHAYANA, 1945 CRIME NO.10/2018 OF GURUVAYOOR POLICE STATION, THRISSUR DISTRICT PROCEEDINGS IN SC 482/2021 OF SPECIAL COURT FOR SC/ST (POA) ACT CASES, THRISSUR PETITIONERS/ACCUSED NOS.1 TO 3:

1 DIVIN, AGED 26 YEARS, S/O.DEVASSY, NEYYAN HOUSE, IRINGAPURAM (PO), GURUVAYUR VILLAGE, THRISSUR, PIN - 680 101. 2 JISHNU, AGED 25 YEARS, S/O.UNNI, KAREKKAD HOUSE, IRINGAPURAM (PO), GURUVAYUR VILLAGE, THRISSUR DT - 680 101. 3 LIJO, AGED 31 YEARS, S/O.DEVASSY, NEYYAN HOUSE,

IRINGAPURAM (PO), GURUVAYUR VILLAGE, THRISSUR DT., PIN - 680 101. BY ADV SUMODH MADHAVAN NAIR

RESPONDENTS/STATE & DEFACTO COMPLAINANT:

1 STATE OF KERALA, REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM - 682 031. 2 PRAMOD, AGED 38 YEARS, S/O.PUSHPAKARAN, KOOLIYATTU HOUSE, IRINGAPURAM (PO), GURUVAYUR VILLAGE, THRISSUR DT., PIN - 680 101. 3 SURESHBABU, AGED 51 YEARS, S/O.SANKARAN, PATTIKKARA HOUSE, I.H.D.P. COLONY IRINGAPURAM (PO), GURUVAYUR VILLAGE, THRISSUR DT., PIN - 680 101. 4 AJITHA, AGED 48 YEARS, W/O.SURESHBABU, PATTIKKARA HOUSE, I.H.D.P. COLONY, IRINGAPURAM (PO), GURUVAYUR VILLAGE, THRISSUR DT.,

5 JITHU KRISHNA, AGED 18 YEARS, S/O. SURESHBABU, PATTIKKARA HOUSE, I.H.D.P. COLONY IRINGAPURAM (PO), GURUVAYUR VILLAGE, THRISSUR DT., PIN - 680 101. 6 DINIL, AGED 28 YEARS, S/O.MOHANAN, KOTTARAPATTU HOUSE, IRINGAPURAM (PO), GURUVAYUR VILLAGE, THRISSUR DT., 7 SREEJITH, AGED 31 YEARS, S/O.SREEDHARAN, KARUMATTIL HOUSE, IRINGAPURAM (PO), GURUVAYUR VILLAGE, THRISSUR DT.,

SRI. G. SUDHEER (PP) SRI.T.A.PRAKASH THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 08.12.2023, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

Petitioners are accused Nos.1 to 3 in Crime No.10 of 2018 of Guruvayoor Police Station, Thrissur District, alleging commission of offences under Sections 143, 147, 148, 447, 341, 323, 324, 354, 294(b) and 506(ii) read with Section 149 of the Indian Penal Code and Section 3(2)(va) of the Scheduled Caste and Scheduled

Tribe (Prevention of Atrocities) Act. The matter is now pending as S.C.No.482 of 2021 on the file of the Special Court for SC/ST

(POA) Act Cases, Thrissur. The allegation against the petitioners

is that on account of the fact that the de-facto complainant had celebrated the new year wildly and making a lot of noise, on the night of 31.12.2017, accused Nos.1 to 4 and ten other persons unlawfully ganged up armed with deadly weapons like iron pipe and stick. The 1st accused hit the de-facto complaint on the left palm with an iron pipe and injured him and the 2 nd accused had beaten the de-facto complaint on the stomach and on his back with a stick. It is also alleged that when the brother and father of the de-facto complaint rushed to help the de-facto complaint, they were all beaten up and threatened by the accused and thereby they committed the offences alleged against them.

2. The learned counsel appearing for the petitioners

would submit that the entire issues between the petitioners and respondents 2 to 7 have been settled. It is submitted that respondents 2 to 7 have executed Annexures - A3 to A8 affidavits indicating that they do not wish to continue with the prosecution in any manner. It is submitted that no public interest will be served by continuing with the proceedings against the petitioners.

3. The learned Public Prosecutor and the learned counsel appearing for respondents 2 to 7 would submit that all

issues between the petitioners and respondents 2 to 7 have been

settled and they do not wish to continue with the proceedings against the petitioners.

4. Having heard the counsel as above, I am of the view

that keeping in mind the principles laid down in Gian Singh v. State of Punjab and Another; (2012) 10 SCC 303, and State of Madhya Pradesh v. Laxmi Narayan and Others; (2019) 5 SCC 688, the proceedings in Crime No.10 of 2018 of Guruvayoor

Police Station, Thrissur District, which is now pending as S.C.No.482 of 2021 on the file of the Special Court for SC/ST

(POA) Act Cases, Thrissur, can be terminated on the ground of

settlement. No public interest will be served by continuing with the proceedings. The offences are not of a heinous nature that would require this Court to refrain from exercising jurisdiction under Section 482 of the Cr.P.C. Accordingly, this Crl.M.C is allowed and all further proceedings in S.C.No.482 of 2021 on the file of the Special Court for SC/ST (POA) Act Cases, Thrissur, arising out of Crime No.10 of 2018 of Guruvayoor Police Station, Thrissur District, will stand quashed as against the petitioners. Sd/- GOPINATH P. JUDGE DK APPENDIX OF CRL.MC 6042/2023 PETITIONER ANNEXURES Annexure A1 A CERTIFIED COPY OF THE FIR IN CRIME

NO.10/2018 DATED 03.01.2018 OF GURUVAYUR POLICE STATION, THRISSUR DISTRICT FOR OFFENCES PUNISHABLE UNDER SECTIONS 143, 147, 447, 341, 323, 324, 506 R/W 149 OF INDIAN PENAL CODE Annexure A2 A CERTIFIED COPY OF THE CHARGE SHEET

IN CRIME NO.10/2018 OF GURUVAYUR POLICE STATION, THRISSUR FOR OFFENCES PUNISHABLE UNDER SECTIONS 143, 147, 148, 447, 341, 323, 324, 354 294(B), 506(II), 149 OF I.P.C. R/W SECTION 3(2)(VA) OF THE SC/ST POA ACT DATED 01.04.2021, SUBMITTED BEFORE THE HON'BLE DISTRICT & SESSIONS COURT, THRISSUR BY THE INVESTIGATING OFFICER

Annexure A3 ORIGINAL AFFIDAVIT SWORN BY THE 2ND RESPONDENT/ DEFACTO COMPLAINANT IN CRIME NO.10/2018 DATED 03.07.2023 Annexure A4 ORIGINAL AFFIDAVIT SWORN BY THE 3RD RESPONDENT (CW2) IN CRIME NO.10/2018 Annexure A5 ORIGINAL AFFIDAVIT SWORN BY THE 4TH RESPONDENT (CW3) IN CRIME NO.10/2018 Annexure A6 ORIGINAL AFFIDAVIT SWORN BY THE 5TH RESPONDENT (CW4) IN CRIME NO.10/2018 Annexure A7 ORIGINAL AFFIDAVIT SWORN BY THE 6TH RESPONDENT

(CW5) IN CRIME NO.10/2018 Annexure A8 ORIGINAL AFFIDAVIT SWORN BY
THE 7TH RESPONDENT (CW6) IN CRIME NO.10/2018

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