

Aromal vs State of Kerala

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Court : Kerala Orders

Decided On : Feb-24-2023

Judge : Honourable Mr. Justice Bechu Kurian Thomas

Appeal No. : Crl.MC/7886/2022

Appellant : Aromal

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS FRIDAY, THE 24TH DAY OF FEBRUARY 2023 / 5TH PHALGUNA, 1944 TCP 27/2022 OF JUDICIAL MAGISTRATE OF FIRST CLASS - I, NORTH PARAVUR PETITIONERS/ ACCUSED 1 TO 4 : 1 AROMAL, AGED 19 YEARS, S/O RAJENDRAN, MALAYIL HOUSE, VADAKKEKKARA VILLAGE, CHITTATTUKARA, ERNAKULAM DISTRICT, PIN - 683 513 2 ARJUN, AGED 19 YEARS, S/O ARUNKUMAR, PALLATH HOUSE, VADAKKEKKARA VILLAGE, CHITTATTUKARA, ERNAKULAM DISTRICT, PIN - 683513 3 NIJIL VENU, AGED 20 YEARS, S/O VENU, KALAVELIPPADATHU HOUSE, VADAKKEKKARA VILLAGE, MURAVANTHURUTHU, ERNAKULAM

DISTRICT, PIN - 683 513 4 VIDHUKRISHNA, AGED 19 YEARS, S/O DILEEP, AANAATT HOUSE, VADAKKEKKARA VILLAGE, CHITTATTUKARA, ERNAKULAM DISTRICT, PIN - 683 513 BY ADVS. JOBI.A.THAMPI BINNY.A.THOMAS RESPONDENTS/ STATE/ DEFACTO COMPLAINANT/ INJURED : 1 STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031 2 SAFRUDEEN, AGED 51 YEARS, S/O MOHAMMADALI, PARADAN HOUSE, KOTTAPPURAM, ALANGAD P.O., ERNAKULAM DISTRICT, PIN - 683511

3 MOHAMMED SAFAL, AGED 14 YEARS, S/O SAFRUDEEN, AGED 14, PARADAN HOUSE, KOTTAPPURAM, ALANGAD P.O., REPRESENTED BY HIS FATHER AND GUARDIAN SAFRUDEEN, S/O MOHAMMADALI, PARADAN HOUSE, KOTTAPPURAM, ALANGAD P.O., ERNAKULAM DISTRICT, PIN - 683 511 4 BASHEER, AGED 53 YEARS, S/O EBRAHIM, VELIPPARAMBIL, PIN - 680 671 5 BEENA BASHEER, AGED 45 YEARS, W/O BASHEER, VELIPPARAMBIL, PIN - 680671 6 YUNAS, AGED 14 YEARS, S/O BASHEER, VELIPPARAMBIL, PIN-680671, REPRESENTED BY HIS FATHER AND GUARDIAN, BASHEER , AGED 53, S/O EBRAHIM, VELIPPARAMBIL, EDAVILANGU P.O., THRISSUR DISTRICT, PIN - 680 671 7 AFSAL, AGED 18 YEARS, S/O FIZAL, VELIPPARAMBIL, PIN - 680 671 8 NIHAL, AGED 18 YEARS, S/O SIDDIQUE, VADAKKAL HOUSE, PIN - 680671 BY SHOUKATH HUSAIN BY SRI.NOUSHAD K.A., PUBLIC PROSECUTOR THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 24.02.2023, THE COURT ON THE SAME DAY PASSED THE FOLLOWING :

BECHU KURIAN THOMAS, J.

----- Crl.M.C.No.7886 of 2022
----- Dated this the 24th day of February, 2023

ORDER

Petitioners are accused Nos.1 to 4 in C.P.No.27/2022 on the files of the Judicial First Class Magistrates Court-I, North Parur. The said case arose from Crime No.997/2021 of Vadakkekerala Police Station alleging offences under Sections 341, 323, 324, 294(b), 427 and 308 r/w Section 34 of the Indian Penal Code, 1860.

2. Petitioners have approached this Court under Section 482

of the Code of Criminal Procedure, 1973 seeking to quash the entire proceedings in the aforementioned crime on the basis of the settlement arrived at between the parties. In support of the contentions, it is pointed out that the affidavits have already been filed as Annexure A3 to Annexure A7 by the defacto complainant as well as the injured witnesses stating that they are not interested to pursue the prosecution.

3. I have heard Sri.Jobi A.Thampi, the learned counsel for the petitioners as well as Sri.Noushad K.A., the learned Public Prosecutor.

4. According to the prosecution, the accused had, on

becoming agitated by the attempt of the defacto complainant to overtake their car, blocked the road and after restraining the defacto complainant and others, abused and brutally assaulted them. The rear view mirror of the vehicle was destroyed and they did not even spare the 13 year old son of CW2 and inflicted serious injuries on the body of the witnesses and damaged the car and thereby committed the offences alleged.

5. A perusal of the prosecution allegations reveal that the

incident happened on a public road in broad day light and the accused did not even spare the minor child. A reading of the affidavits filed before this Court do not inspire confidence that the same have been given of free will. The nature of offences and the injuries inflicted on the victims reflect an incident that was horrifying.

6. Though the learned Public Prosecutor, upon instructions

submitted that the police had verified the veracity of the affidavits and found them to be true, I am of the view that considering the peculiar circumstances arising in the case, the manner and mode in which the injuries were inflicted, including those on the minor victim, the alleged settlement cannot be accepted as being purely voluntary, I find no reasons to accept the affidavits or the statement of the victims to quash the prosecution case. It is in public interest that offences related to road rage are dealt with sternly. Offences against minor children also cannot be permitted in certain circumstances. Therefore, there is no merit in this petition to quash the criminal proceedings against the petitioners in Crime No.997/2021 of Vadakkekara Police Station. Accordingly, this CrI.M.C. is dismissed. Sd/- BECHU KURIAN THOMAS, JUDGE RKM APPENDIX OF CRL.MC 7886/2022 PETITIONERS' ANNEXURES : Annexure A1 CERTIFIED COPY OF THE FIRST INFORMATION REPORT IN CRIME NO.997/2021 OF VADAKKEKKARA POLICE STATION Annexure A2 CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.997/2021 OF VADAKKEKKARA POLICE STATION Annexure A3 THE AFFIDAVIT DTD.29-10-2022 PREPARED BY THE 2ND RESPONDENT Annexure A4 THE AFFIDAVIT DTD.27-10-2022 PREPARED BY THE 4TH RESPONDENT Annexure A5 THE AFFIDAVIT DTD.27-10-2022 PREPARED BY THE 5TH RESPONDENT Annexure A6 THE AFFIDAVIT DTD.27-10-2022 PREPARED BY THE 7TH RESPONDENT Annexure A7 THE AFFIDAVIT DTD.27-10-2022 PREPARED BY THE 8TH RESPONDENT