

Abdul Malik vs State of Kerala

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Court : Kerala

Decided On : Jan-13-2023

Judge : Honourable Mr.Justice Ziyad Rahman a.a.

Appeal No. : Crl.MC/9294/2022

Appellant : Abdul Malik

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
FRIDAY, THE 13TH DAY OF JANUARY 2023 / 23RD POUSHA, 1944
CRIME NO.1464/2022 OF ERNAKULAM CENTRAL POLICE STATION
PETITIONERS:

1 ABDUL MALIK AGED 22 YEARS, S/O KAMARUDHEEN,
MATTANCHERY, ERNAKULAM DISTRICT, PIN - 682002 2 BILAL
SHAMSUDHEEN M.S AGED 20 YEARS S/O SHAMSUDHEEN T.K,
MALIYEKKAL HOUSE, MANKKURUSHI P.O, PALAKKAD DISTRICT,
PIN - 678613 3 NANDUKRISHNA G AGED 21 YEARS S/O GIREESH,
NIKATH HOUSE, NANTHYATTUKUNNAM, NORTH PARAVUR

ERNAKULAM DISTRICT, PIN - 683513 4 MUHAMMED RASHID M.M
S/O MOHAMMED RAFI M.A, MANAMKERIYIL HOUSE, ERIYAD P.O,
THRISSUR DISTRICT, PIN - 680666 5 MOHAMMED MUKTHAR S/O
NOUSHAD K.A, KOCHAPARRASSERIL HOUSE, NADAVATH NAGAR
P.O, CHERTHALA, ALAPPUZHA DISTRICT, PIN - 679332 6 DILU
BADUSHA P AGED 21 YEARS S/O FASAL RAHMAN P,
PUTHIYAKATH HOUSE, RAHIMAN BAZAR, KOLATHARA P.O,
KOZHIKKODE DISTRICT, PIN - 673655 7 HAFEES P.H S/O HARIS
P.K, ERNAKULAM DISTRICT , PIN - 682002

BY ADVS. GEEVAN T.CHARLES RAHIB K.Y ANTONY THOMAS
ANSHIN K.K AYNOSH MICHAEL P.S
RESPONDENTS/STATE/COMPLAINANT AND DEFACTO
COMPLAINANT: 1 STATE OF KERALA REPRESENTED BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM, PIN -
682031 2 THE STATION HOUSE OFFICER ERNAKULAM CENTRAL
POLICE STATION, ERNAKULAM,, PIN - 682031 3 AMEEN MUBARAK
AGED 22 YEARS, S/O MUHAMMED, BAITHUL NOOR (H)
THAVANOOR P.O, MALAPPURAM DISTRICT, PIN - 673641 BY ADV
ADV VIVEK.P.K ADV.SREEJA.V., SR.P.P. THIS CRIMINAL MISC.
CASE HAVING COME UP FOR ADMISSION ON 13.01.2023, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

The petitioners are the accused in Crime No.1464/2022 of Ernakulam Central Police Station which was registered for the offences punishable under Sections 323, 506 and 308 read with Section 34 of Indian Penal Code. Annexure A1 is the First Information Report. The 3rd respondent is the defacto complainant. This Crl.M.C. is filed for quashing all further proceedings pursuant to Annexure A1.

2. Heard Sri.Geevan T Charles, learned counsel appearing for the petitioners, Smt.Sreeja V., learned Public Prosecutor for the State and Sri.Vivek P.K., learned counsel appearing for the 3 rd respondent.

3. The prayer for quashing the above proceedings is sought

for by the petitioners on the ground that, the dispute between the parties has been settled and to substantiate the same, the defacto complainant has sworn Annexure A2. The aforesaid affidavit indicates that, the matter has been settled and the defacto complainant has no subsisting grievance against the petitioners herein. He also conveyed that he has no objection in quashing the proceedings against the petitioners herein. The learned counsel for the 3rd respondent/defacto complainant also confirmed the same. The learned Public Prosecutor upon instructions submitted that the veracity of the settlement was verified by the Station House officer concerned and before the SHO also, the defacto complainant has reiterated that, he does not have any objection in quashing the proceedings as he has no subsisting grievance against the petitioners herein.

4. Going through the materials available on record, it is

discernible that, the dispute is basically private in nature and on account of settlement arrived at between the parties, no purpose would be served if the proceedings against the petitioners herein were allowed to continue. In such circumstances, the chances of a successful prosecution are very bleak. Therefore, I am of the view that going by the decision in *Gian Singh v. State of Punjab and Another* [2012(4) KLT 108], this is a fit case in which the powers of this Court under Section 482 of the Code of Criminal Procedure can be invoked.

5. It is true that one of the offences is under Section 308 of

Indian Penal Code. However, it is discernible from the records that no serious injuries were sustained by the defacto complainant. Moreover, the petitioners as well as the 3rd respondents are students of Maharajas College, Ernakulam and the incident occurred inside the campus. Now all the disputes between the parties have been settled and their harmonious relationship has been restored. In such circumstances, I deem it appropriate to invoke the jurisdiction of this Court under Section 482 of Cr.P.C. and quash the proceedings.

Accordingly, this Crl.M.C. is allowed. Annexure A1 First Information Report in Crime No.1464/2022 of Ernakulam Central Police Station and all further proceedings pursuant thereto as against the petitioners are hereby quashed. Sd/- ZIYAD RAHMAN A.A. JUDGE scs APPENDIX OF CRL.MC 9294/2022 PETITIONER ANNEXURES Annexure A1 CERTIFIED COPY OF THE FIR NO,1464/2022 DATED 03/11/2022 OF JUDICIAL FIRST CLASS MAGISTRATE COURT- II ERNAKULAM Annexure A2 ORIGINAL AFFIDAVIT OF THE DEFACTO COMPLAINANT

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