

Faisal vs State of Kerala

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Court : Kerala

Decided On : Mar-31-2022

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

Appeal No. : Crl.MC/152/2022

Appellant : Faisal

Respondent : State of Kerala

Judgement :

Crl.M.C.No.152/2022 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
THURSDAY, THE 31ST DAY OF MARCH 2022 / 10TH CHAITHRA, 1944
CRL.MC NO. 152 OF 2022 AGAINST THE ORDER/JUDGMENT IN SC 272/2014
OF PRINCIPAL SUB COURT / COMMERCIAL COURT, THRISSUR
PETITIONERS/ACCUSED: 1 FAISAL, AGED 39 YEARS, S/O.KUNJIMARAKKAR,
PUTHIYA MALIYEKKAL HOUSE, AKALAD VTH STONE DESOM, PUNNAYUR
VILLAGE, PUNNAYUR P.O., 2 ALI, S/O.KUNJUHAJI, CHITTOTHAYIL HOUSE,
AKALAD VTH STONE DESOM, PUNNAYUR VILLAGE, PUNNAYUR P. O.,
THRISSUR DISTRICT - 679 562. 3 THAHA, S/O.SIDDIQUE MOULAVI, PUTHIYA
MALIYEKKAL HOUSE, AKALAD VTH STONE DESOM, PUNNAYUR VILLAGE,

PUNNAYUR P. O., THRISSUR DISTRICT - 679 562. 4 SUKHAIR, S/O.HUSSAIN, THORANATH HOUSE, AKALAD VTH STONE DESOM, PUNNAYUR VILLAGE, PUNNAYUR P. O., 5 NOWFAL, AGED 40 YEARS, S/O.THORANATH VEETIL ABOOBACKER, AKALAD VTH STONE DESOM, PUNNAYUR VILLAGE, PUNNAYUR P. O.,

Crl.M.C.No.152/2022 2 BY ADVS. K.N.ABHILASH SUNIL NAIR PALAKKAT M.A.AHAMMAD SAHEER P.B.MUHAMMED AJEESH RITHIK S.ANAND RESPONDENTS/STATE & DE FACTO COMPLAINANTS: 1 STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM - 682 031. 2 THE STATION HOUSE OFFICER, VADAKKEKAD POLICE STATION, THRISSUR - 679 562.

3 KHALEEL, AGED 34 YEARS, S/O.MUHAMMADALI, ANCHINGAL HOUSE, ANCHAM KALLU, AKALAD, PUNNAYOOR VILLAGE, 4 HAMSA, AGED 66 YEARS, S/O.ABDUL RAHMAN, ANCHINGAL HOUSE, ANCHAM KALLU, AKALAD, PUNNAYOOR VILLAGE, BY ADV JACOB SEBASTIAN ADV. SUDHEER GOPLSKRISHNAN-PP THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 31.03.2022, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Crl.M.C.No.152/2022 3

ORDER

The petitioners are the accused 1,2 and 4 to 6 in S.C.No.272 of 2014 on the file of the Asst. Sessions Court, Thrissur. The offences alleged are under Sections 143, 147, 148, 323, and 324 read with 149 IPC. The aforesaid case was registered on the basis of an information submitted by the 3rd respondent.

2. The allegation against the accused persons is that on

04.01.2005 at about 5.30 pm, they formed themselves into an unlawful assembly and in furtherance of their common object, assaulted the 3rd and 4th respondents with deadly weapons. In respect of the same, Crime No.7 of 2005 was registered, and later Annexure-A2 final report was submitted based on which cognizance was taken. This Crl.M.C.is filed for quashing all further proceedings pursuant to the

same.

3. Heard Sri.K.N.Abhilash, learned counsel for the

petitioner, Sri.Jacob Sebastian, learned counsel for the 2 nd and 3rd respondents and Sri.Sudheer Gopalakrishnan, learned Public Prosecutor for the State. Crl.M.C.No.152/2022 4

4. Prayer for quashing the proceedings is sought mainly on

the ground that the dispute between the parties has been settled. To substantiate the settlement, Annexures-A3 and A4 affidavits sworn by 3rd and 4th respondents are filed along with this Crl.M.C. In the said affidavits, the 3rd and 4th respondents had explicitly acknowledged the aforesaid settlement and also conveyed the no-objection to quash the proceedings against the petitioners herein. The learned counsel appearing for the 3 rd and 4th respondents also confirms the same. The learned Public Prosecutor, upon instructions, submitted that the Station House Officer concerned has verified the veracity of the same and found it to be genuine.

5. The allegations would reveal that the dispute is purely

private in nature. In such circumstances, by applying the principles laid down by the Honourable Supreme Court in Gian Singh v. State of Punjab and Another [(2012) 10 SCC 303], proceedings can be quashed by invoking the powers of this Court under Section 482 Cr.P.C. This is mainly because, on account of the settlement, no fruitful purpose would be served by allowing the prosecution to continue. Crl.M.C.No.152/2022 5 In the result, this Crl.M.C. is allowed and Annexure-A2 final report submitted in crime No.7 of 2005 of Vadakkekadu Police Station and all further proceedings in S.C.No.272 of 2014 on the file of the Asst.Sessions Court, Thrissur, as against the petitioners herein, are hereby quashed. Sd/- ZIYAD RAHMAN A.A. JUDGE DG/13.4.22 Crl.M.C.No.152/2022 6 APPENDIX OF CRL.MC 152/2022 PETITIONER ANNEXURES Annexure A1 TRUE COPY OF THE FIR NO.7/2005 ALONG WITH F I STATEMENT DATED 05.01.2005 OF THE VADAKKEKKADU POLICE STATION, THRISSUR DISTRICT. Annexure A2 THE CERTIFIED COPY OF THE CHARGE SHEET

DATED 20.01.2007 IN SC NO.272/2014 ON THE FILES OF ASST. SESSIONS COURT, THRISSUR DISTRICT. Annexure A3 THE AFFIDAVIT EXECUTED BY THE 3RD RESPONDENT DATED 18.12.2021. Annexure A4 THE AFFIDAVIT EXECUTED BY THE 4TH RESPONDENT DATED 18.12.2021.

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