

Aneesh vs State of Kerala

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Court : Kerala

Decided On : Jun-21-2022

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

Appeal No. : Crl.MC/328/2022

Appellant : Aneesh

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A. TUESDAY,
THE 21ST DAY OF JUNE 2022 / 31ST JYASHTA, 1944 CC 574/2015 OF
JUDICIAL MAGISTRATE OF FIRST CLASS -II, NEYYATTINKARA CRIME
NO.104/2015 OF POOVAR POLICE STATION

PETITIONERS/ACCUSED NOS.1 TO 7: 1 ANEESH AGED 34 YEARS 2 ANOOP
AGED 35 YEARS 3 AJITH AGED 33 YEARS 4 RAMAKRISHNAN AGED 77
YEARS S/O. NALLATHAMPI NADAR, KONTHIVILA KALLUTHATTU VEEDU,
THIRUPURATHOOR DESOM, THIRUPURAM VILLAGE, 5 SURENDRAN AGED
49 YEARS S/O. RAMAKRISHNAN, PUNNAKKAVILA, SOORAJ, THIRUPPURAM
VILLAGE, THIRUPURATHOOR DESOM, THIRUVANANTHAPURAM 695 133. 6
SANTHOSH KUMAR AGED 33 YEARS S/O. RAJENDRAN, MONTHIVILA

VEEDU, 7 SASIDHARAN AGED 68 YEARS S/O. THAPASI NADAR, PANNIKUZHICALA VEEDU, THIRUPPURATHOOR DESOM, THIRUPPURAM VILLAGE, BY ADV NAVEEN RADHAKRISHNAN RESPONDENTS/STATE & DEFACTO COMPLAINANT:

1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM 682 031 (CRIME NO. 104/2015 OF POOVAR POLICE STATION, THIRUVANANTHAPURAM) 2 VINODH AGED 39 YEARS S/O GANAGADHARAN, PANNIKUZHICALA KALLUTHATTU GANGA BHAVAN, THIRUPURATHOOR DESOM, THIRUPPURAM VILLAGE, THIRUVANANTHAPURAM - 695 3 VINODH AGED 39 YEARS S/O. GANAGADHARAN, PANNIKUZHICALA KALLUTHATTU GANGA BHAVAN, THIRUPURATHOOR DESOM, THIRUPPURAM VILLAGE, THIRUVANANTHAPURAM 695 133 BY ADV ADV. R.PRADEEP (TRIVANDRUM) ADV.SUDHEER GOPALAKRISHNAN - PUBLIC PROSECUTOR THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 21.06.2022, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

The petitioners are the accused Nos.1 to 7 in Crime No.104/2015 of Poovar Police Station which is now pending as C.C. No.574/2015 before the Judicial First Class Magistrate Court - II, Neyyattinkara. The offences alleged against the petitioners are under Sections 143, 147, 148, 149, 341, 323 and 324 of Indian Penal Code.

2. The prosecution case is that, on 05.02.2015 at about

5.45 p.m., the petitioners have trespassed into the property of the 2 nd respondent and assaulted him. Annexure A1 is the First Information Report and Annexure A2 is the final report submitted by the Police. This Crl.M.C. is filed for quashing all further proceedings pursuant thereto.

3. Heard Sri.Naveen Radhakrishnan, learned counsel for the

petitioners and Sri.Sudheer Gopalakrishnan, learned Public Prosecutor appearing for the State and Sri.R.Pradeep, learned counsel appearing for the 2nd

respondent.

4. 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 injured person has sworn Annexure A3. The aforesaid affidavit indicates that, the matter has been settled and the injured person 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 2nd respondent/injured person 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 injured person has reiterated that, he does not have any objection in quashing the proceedings as he has no subsisting grievance against the petitioners herein.

5. 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. Accordingly, this Crl.M.C. is allowed. Annexure A2 Final Report in Crime No.104/2015 of Poovar Police Station and all further proceedings in C.C.No.574/2015 pending before the Judicial First Class Magistrate Court II, Neyyattinkara as against the petitioners are hereby quashed. Sd/- ZIYAD RAHMAN A.A. JUDGE scs
APPENDIX OF CRL.MC 328/2022 PETITIONER ANNEXURES Annexure A1
CERTIFIED COPY OF THE FIR IN CRIME NO. BEFORE HON'BLE JUDICIAL
FIRST CLASS MAGISTRATE COURT-II, NEYYATTINKARA DATED 05-02-2015
Annexure A2 PHOTOCOPY OF THE FINAL REPORT IN CRIME

NO 104/2015 OF POOVAR POLICE SUBMITTED BEFORE HON'BLE JUDICIAL
FIRST CLASS MAGISTRATE COURT II, NEYYATTINKARA DATED 5-3-2015
Annexure A3 ORIGINAL OF THE AFFIDAVIT SWORN BY THE DEFACTO
COMPLAINANT/2ND RESPONDENT IN C.C 574/2015 DATED 27-09-2021

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