

Vinod 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/325/2022

Appellant : VINOD

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 JYAISHTA, 1944 CC
436/2015 OF JUDICIAL MAGISTRATE OF FIRST CLASS -
II, NEYYATTINKARA CRIME NO.103/2015 OF POOVAR POLICE
STATION

PETITIONERS/ACCUSED NOS.1 TO 6: 1 VINOD AGED 40 YEARS S/O
GANGADHARAN, PANNIKUZHICALA, KALLUTHATTE, 'GANGA
BHAVAN', THIRUPURATHOOR DESOM, THIRUPURAM VILLAGE,
THIRUVANANTHAPURAM-695 133 2 SHAIJU AGED 43 YEARS S/O.
NESHAMANI, N S BHAVAN, NEAR PANNIKUZHICALA VETERINARY

HOSPITAL, THIRUPURATHUR DESOM, THIRUPURAM VILLAGE, 3 MANJITH AGED 34 YEARS S/O. PRABHAKARAN, MAVUNINNA KULANGARA VEETIL, THIRUPURATHUR DESOM, THIRUPURAM VILLAGE, 4 REJIMON AGED 39 YEARS S/O. THANKARAJ, KULANGARA VEETIL, THIRUPURATHUR DESOM, THIRUPURAM VILLAGE, THIRUVANANTHAPURAM-695 133 5 SURESHKUMAR AGED 40 YEARS S/O. THANKARAJ, KARAKKAVILA VEETIL, THIRUPURATHUR DESOM, KARAKKAVILA, THIRUPURAM VILLAGE, 6 JOSE AGED 38 YEARS S/O. SIVANANDAN, SHIVARAJA SADANAM, THIRUPURATHUR DESOM,, THIRUPURAM VILLAGE, PATTAVILAKAM, 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.103/2015 OF POOVAR POLICE STATION) 2 SURENDRAN AGED 48 YEARS S/O.RAMAKRISHNAN, PUNNAKKAVIL, SOORAJ HOUSE, 3 RAMAKRISHNAN AGED 76 YEARS S/O. NALLATHAMPI NADAR, MONTHIVILA KALLUTHATTU VEEDU, THIRUPURATHUR DESOM, THIRUPURAM VILLAGE, THIRUVANANTHAPURAM-695 133

4 LALITHA AGED 70 YEARS D/O MARY, MONTHIVILA KALLUTHATTU VEEDU, 5 ANEESH AGED 34 YEARS S/O.SASIDHARAN, PANNIKUZHICKALA VEEDU, 6 AJITH AGED 32 YEARS S/O.SASIDHARAN, PANNIKUZHICKALA VEETIL, 7 SASIDHARAN AGED 67 YEARS S/O.THAPASINADAR, PANNIKUZHICKALA VEEDU, 8 PRASANNA AGED 55 YEARS D/O. MARY, PANNIKUZHICKALA VEEDU, 9 AJINA AGED 44 YEARS D/O. SASILEKHA, PUNNAKKAVILA SOORAJ VEETIL, 10 SOORAJ AGED 17 YEARS S/O. SURENDRAN, PUNNAKKAVILA SOORAJ VEETIL, THIRUVANANTHAPURAM-695 133, REP BY HIS FATHER SURENDRAN 2ND RESPONDENT BY ADV. ADV. M. P. PRASHANT - SR PP, ADV. SUDHEER GOPALAKRISHNAN -PP ADV.R.S.ABHILASH 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 6 in Crime No.103/2015 of Poovar Police Station which is now pending as C.C. No.436/2015 before the Judicial First Class Magistrate Court - II, Neyyattinkara. The offences alleged against the petitioners are under Sections 143, 147,148, 149, 447, 294(b), 324, 323, 506 (1) and 427 of Indian Penal Code.

2. The prosecution case is that on 05.12.2015 at 5.45 p.m.,

the petitioners formed themselves into an unlawful assembly, armed with weapons trespassed into the house of the 2nd respondent and assaulted the respondents 2 to 10. Annexure A1 is the final report submitted by the Police. This CrI.M.C. filed for quashing all further proceedings pursuant thereto.

3. Heard Sri.Naveen Radhakrishnan, learned counsel

appearing for the petitioners, Sri.Prasanth M.P., learned Public Prosecutor appearing for the State and Sri.R.S. Abhilash, learned counsel appearing for the respondents 2 to 10.

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 persons have sworn Annexure A2 to Annexure A10 affidavits respectively. The aforesaid affidavits indicate that, the matter has been settled and the injured persons have no subsisting grievance against the petitioners herein. They also conveyed that they have no objection in quashing the proceedings against the petitioners herein. The learned counsel for the respondents 2 to 10/injured persons 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 persons have reiterated that, they do not have any objection in quashing the proceedings as they have 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 A1 final report in Crime No.103/2015 of Poovar Police Station and all further proceedings in C.C.No.436/2015 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 325/2022 PETITIONER ANNEXURES Annexure A1 CERTIFIED COPY OF THE FINAL REPORT INC

RIME NO.103/2015 OF POOVAR POLICE STATION SUBMITTED BEFORE THE HON'BLE JUDICIAL FIRST CLASS MAGISTRATE COURT- II, NEYYATTINKARA, DATED 05.07.2015 Annexure A2 ORIGINAL OF THE AFFIDAVIT SWORN BY THE 2ND RESPONDENT IN CC NO.436/2015 DATED Annexure A3 ORIGINAL OF THE AFFIDAVIT SWORN BY THE 3RD RESPONDENT IN CC NO.436/2015 DATED

Annexure A4 ORIGINAL AFFIDAVIT SWORN BY THE 4THAnnexure A5

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