

Arshad N. vs State of Kerala

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Court : Kerala

Decided On : Jul-06-2022

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

Appeal No. : Crl.MC/419/2022

Appellant : Arshad N.

Respondent : State of Kerala

Judgement :

Crl.M.C.No.419/22 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
WEDNESDAY, THE 6TH DAY OF JULY 2022 / 15TH ASHADHA, 1944 CRL.MC
NO. 419 OF 2022 CRIME NO.1200/2020 OF Chandra Police Station, Kasargod
AGAINST THE ORDER/JUDGMENT IN CC 439/2021 OF JUDICIAL
MAGISTRATE OF FIRST CLASS -I,HOSDRUG PETITIONERS/ACCUSED 1 TO
7: 1 ARSHAD N., AGED 24 YEARS, S/O.MUHAMMED ALI, N. A. HOUSE,
BEERICHERI, SOUTH THRIKKARIPUR, KASARAGOD DISTRICT - 671 310. 2
SREEJITH K. @ KUTTAN, AGED 26 YEARS, S/O.CHANDRAN P.,
KAPPANAKAL HOUSE, CHERUKANAM, 3 RAMSHAD V.K., AGED 26 YEARS,
S/O.ABDUL RAHEEM, N.A.K.HOUSE, VELLAP, 4 MUHAMMED S., AGED 34

YEARS, S/O.ABDULLA S., BADUSHA MANZIL, NORTH THRIKKARIPUR, KASARAGOD DISTRICT - 671 310. 5 MUHAMMED MUFEED M.T.P., AGED 24 YEARS, S/O.MUHAMMED KUNHI P., THAYAL HOUSE, BEERICHERI, 6 ANSAR A.G., AGED 25 YEARS, S/O.HASSAN C.K., A. G. HOUSE, BEERICHERI, CrI.M.C.No.419/22 2 7 ASHAR ALI V.P., AGED 33 YEARS, S/O.AMEER ALI V. P., PUTHALATH HOUSE, BEERICHERI, BY ADV P.K.SUBHASH RESPONDENTS/COMPLAINANT & STATE: 1 STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM - 682 031. (CRIME NO.503/2021 OF BAKEL POLICE STATION, KASARAGOD DISTRICT). 2 NOUSHAD V.P., AGED 37 YEARS, S/O.IBRAHIM, VALIYAPEETIKA HOUSE, PERUNTHALMANNA, MALAPPURAM, NOW RESIDING AT A. G. QUTERS, CHOVERY, 3 SHAFEEK K., AGED 36 YEARS, S/O.MUHAMMED KUNHI, SAFIYA MANZIL, THANKAYA, NORTH THRIKKARIPUR, HOSDURG TALUK, KASARAGOD DISTRICT - 671 310. 4 SHUKKUR K., AGED 40 YEARS, S/O.MUHAMMED KUNHI, SAFIYA MANZIL, NEAR GOVERNMENT HOSPITAL, THANKAYAM, NORTH THRIKKARIPUR, KASARAGOD DISTRICT - 671 310. BY ADV.S.ANU SMT.SEENA C., PUBLIC PROSECUTOR THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 06.07.2022, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: CrI.M.C.No.419/22 3

ORDER

Petitioners are the accused Nos.1 to 7 in Crime No.1200 of 2020 of Chandera Police Station, which is now pending as C.C.No.439 of 2021 before the Judicial First Class Magistrate Court-I, Hosdurg. The offences alleged against the petitioners are under Sections 143, 147, 148, 341, 323, 324 read with 149 IPC.

2. The prosecution case is that on 20.12.2020 at 21.00

hours, the accused persons have formed themselves into unlawful assembly with deadly weapons, wrongfully restrained the de facto complainant and assaulted him with wooden stick. When the 2 nd and 3rd respondents tried to intervene, they were also assaulted. Annexure-AI is the FIR and Annexure-AII is the final report submitted by the Police. This CrI.M.C. is filed for quashing all further proceedings

pursuant to Annexure-All final report.

3. Heard Sri.Subhash P.K., learned counsel for the petitioners, Smt.Seena C., learned Public Prosecutor for the State and Smt.S.Anu, learned counsel for the respondents 2 to 4.

4. Prayer for quashing the proceedings is sought mainly on

the ground that the dispute between the parties has been settled. Annexures-AllI to AV affidavits sworn by the respondents 2 to 4 are filed along with this CrI.M.C. to substantiate the settlement. In the said affidavit, the respondents 2 to 4 had specifically acknowledged CrI.M.C.No.419/22 4 the aforesaid settlement and also conveyed the no-objection to quash the proceedings against the petitioners herein. The learned counsel appearing for the respondents 2 to 4 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 particularly because, on account of the settlement, no fruitful purpose would be served by allowing the prosecution to continue. In the result, this CrI.M.C. is allowed, and Annexure-All final report submitted in Crime No.1200 of 2020 of Chandera Police Station and all further proceedings in C.C.No.439 of 2021 on the file of the Judicial First Class Magistrate Court-I, Hosdurg, against the petitioners are hereby quashed. Sd/- ZIYAD RAHMAN A.A. JUDGE DG/7.7.22 CrI.M.C.No.419/22 5 APPENDIX OF CRL.MC 419/2022 PETITIONER ANNEXURES Annexure AI CERTIFIED COPY OF THE FIR IN CRIME NO.1200/2020 OF CHANDERA POLICE STATION, KASARGOD DISTRICT. Annexure All CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.1200/2020 OF CHANDERA POLICE STATION, KASARGOD DISTRICT. Annexure AllI A TRUE COPY OF THE AFFIDAVIT SWORN TO BY THE 2ND

RESPONDENT ENDORSING THE FACTUM Annexure AIV A TRUE COPY OF
THE AFFIDAVIT SWORN TO BY THE 3RD RESPONDENT ENDORSING THE
FACTUM Annexure AV A TRUE COPY OF THE AFFIDAVIT SWORN TO BY THE
3RD RESPONDENT ENDORSING THE FACTUM

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