

Subeesh P.U. vs State of Kerala

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Court : Kerala

Decided On : Dec-12-2022

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

Appeal No. : Crl.MC/442/2022

Appellant : Subeesh P.U.

Respondent : State of Kerala

Advocate for Pet/Ap. : Sri. K.R Vinod

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A. MONDAY,
THE 12TH DAY OF DECEMBER 2022 / 21ST AGRAHAYANA, 1944 CRL.MC NO.
442 OF 2022 AGAINST THE ORDER/JUDGMENT CC 2587/2019 OF
ADDITIONAL CHIEF JUDICIAL MAGISTRATE (E&O),ERNAKULAM
PETITIONERS/ACCUSED:

1 SUBEESH P.U. AGED 38 YEARS S/O.UTHAMAN,
PERUMPILLITHARA HOUSE, PANAMPILLY NAGAR, COCHIN - 682
036. 2 ROBIN JOSEPH AGED 39 YEARS S/O.JOSEPH,
KAITHAKKATHARA HOUSE, PANAMPILLY NAGAR, COCHIN - 682

036. 3 SUJITH P.V. AGED 40 YEARS S/O.VARGHESE, PANEKKATTIL HOUSE, PANAPILLY NAGAR, COCHIN - 682 036. BY ADVS. K.R.VINOD M.S.LETHA

RESPONDENTS: 1 STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, KOCHI - 682 031. 2 BIJU V.S. AGED 48 YEARS S/O.SUBRAMANIAN, VELANGATTUTHARA HOUSE, KONTHURUTHI, ELAMKULAM VILLAGE, ERNAKULAM. BY ADV STAES KINATTUKARA ADV. SREEJA V. - Sr. PP THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12.12.2022, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

The petitioners are the accused Nos. 1 to 3 in Crime No.945/2019 of Ernakulam Town South Police Station which is now pending as C.C No. 2587/2019 before the Additional Chief Judicial Magistrate Court (Economic Offences), Ernakulam. The offences alleged against the petitioners are punishable under Section 326 read with Section 34 of Indian Penal Code. Annexure-A1 is the FIR and Annexure-A2 is the Final Report submitted by the Police. The 2nd respondent is the victim of the crime. This Crl.MC is filed for quashing all further proceedings pursuant to Annexure-A2.

2. Heard Sri. K.R Vinod the learned counsel appearing for

the petitioners, Smt. Sreeja V, the learned Public Prosecutor appearing for the State and Sri. Staes Kinattukara, the learned counsel appearing for the 2nd 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 injured person has sworn Annexure-A3 affidavit. 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.

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, the offence is under Section 326 of

Indian penal Code. However, no criminal antecedents of any of the petitioners were brought to my notice. In such circumstances, taking note of the settlement arrived between the parties, I deem it appropriate to invoke the jurisdiction of this Court under Section 482 Cr.P.C and quash the proceedings. Accordingly, this Crl.M.C. is allowed. Annexure-A2 Final Report in Crime No.945/2019 of Ernakulam Town South Police Station and all further proceedings in C.C.No.2587/2019 pending before the Additional Chief Judicial Magistrate Court (Economic Offences), Ernakulam as against the petitioners are hereby quashed.

Sd/ ZIYAD RAHMAN A.A JUDGE rpk APPENDIX OF CRL.MC 442/2022 PETITIONER ANNEXURES Annexure A1 THE COPY OF THE FIR IN CRIME NO.945/2019 OF ERNAKULAM TOWN SOUTH POLICE STATION. Annexure A2 THE CERTIFIED COPY OF THE FINAL REPORT IN C.C.NO.2587/2019 IN THE FILES OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE COURT

(ECONOMICAL OFFENCES). Annexure A3 THE AFFIDAVIT SWORN BY THE DE-FACTO COMPLAINANT.

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