

Sumatharaj vs State of Kerala

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Court : Kerala

Decided On : May-31-2022

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

Appeal No. : Crl.MC/564/2022

Appellant : Sumatharaj

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
TUESDAY, THE 31ST DAY OF MAY 2022 / 10TH JYAISHTA, 1944
CRL.MC NO. 564 OF 2022 [TO QUASH PROCEEDINGS IN
C.C.NO.981/2019 PENDING BEFORE THE JUDICIAL FIRST CLASS
MAGISTRATE COURT, KATTAKADA] [CRIME NO.112/2019 OF
NEYYAR DAM POLICE STATION] PETITIONERS/ACCUSED NOS.1
TO 5:

1 SUMATHARAJ AGED 41 YEARS S/O.VELUKUTTY KANI, MAITHRI
MANDHIRAM, CHAKKAPPARA, KARIKUZHI P.O., VAZHICAL
VILLAGE, THIRUVANANTHAPURAM - 695 505. 2 VIJEESH AGED 28

YEARS S/O.VIJAYAN KANI, KEZHAKINKARA PUTHEN VEEDU, AYYA VILAKAM, CHAKKAPPARA, KARIKUZHI P.O., VAZHICAL VILLAGE, THIRUVANANTHAPURAM - 695 505. 3 AKHIL AGED 29 YEARS S/O.KRISHNANKUTTY, GOKULAM, CHAKKAPPARA, KARIKUZHI P.O., VAZHICAL VILLAGE, THIRUVANANTHAURAM - 695 505. 4 ANEESH AGED 29 YEARS S/O.AYYAPPAN, SREE PARVATHI MANDHIRAM, CHAKKAPPARA, KARIKUZHI P.O., VAZHICAL VILLAGE, THIRUVANANTHAPURAM - 695 505. 5 ABHIJITH AGED 26 YEARS S/O.SAHADEVAN, SAGAR MANDHIRAM, KOVILLOOR DESOM, CHAKKAPPARA, KARIKUZHI P.O., VAZHICAL VILLAGE, THIRUVANANTHAPURAM - 695 505. BY ADV M.R.SASITH

RESPONDENT/S: 1 STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF CRL.MC No. 564 of 2022 2 KERALA, ERNAKULAM, PIN - 682 031. 2 ANANDHU KRISHNA AGED 25 YEARS S/O.MURALIDHARAN, SARASWATHY MANDIRAM, CHAKKAPPARA, KARIKUZHI P.O., VAZHICAL VILLAGE, THIRUVANANTHAPURAM - 695 505. 3 THE SUB INSPECTOR OF POLICE, NEYYAR DAM POLICE STATION, THIRUVANANTHAPURAM-695572

FOR R2 BY ADV RANJITH E N OTHER PRESENT: FOR R1 AND R3 BY ADV. VIPIN NARAYAN PP THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 31.05.2022, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: CRL.MC No. 564 of 2022 3

ORDER

The petitioners are accused in Crime No.112/2019 of Neyyar Dam Police Station, Thiruvananthapuram which is now pending as C.C.No.981/2019 before the Judicial First Class Magistrate Court, Kattakada. The offences alleged are under Sections 143,147,149,447,323,324 and 326 of the Indian Penal Code (IPC).

2. The allegation against the petitioners is that on 20.02.2019 at about 9.45 p.m., the accused Nos.1 to 6 trespassed into the courtyard of the 2 nd

respondent/defacto complainant and assaulted him with weapons. Annexure-A1 is the F.I.R and Annexure- A2 is the final report submitted by the police. This Crl.M.C. is filed for quashing all further proceedings in Annexure-A2 final report.

3. Heard Sri. Sasith Panicker, the learned

counsel for the petitioners, Sri.Vipin Narayan, the learned Public Prosecutor for the State and Sri. Renjith E.N., the learned counsel appearing for the 2nd respondent/defacto complainant.

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4.

The prayer fo

parties has been settled and to substantiate the same, Annexure-A3 affidavit sworn by the 2nd respondent is produced. The fact of settlement is acknowledged in the aforesaid affidavit, and it is also explicitly stated that, the 2nd respondent has no subsisting grievances against the petitioners herein. The 2nd respondent also clearly expressed his no objection to quashing the proceedings against the petitioners. The learned counsel appearing for the 2nd respondent also confirms the aforesaid settlement and supports the prayer sought for by the petitioners herein. The Station House Officer concerned by contacting the 2nd respondent examined the veracity of the settlement.

5. On going through the nature of allegations

as contained in Annexure-2 final report, it can be seen that, the dispute is basically private in nature. Considering the settlement between the parties, the chances of a successful prosecution are CRL.MC No. 564 of 2022 5 very bleak. Hence, no fruitful purpose would be served if the proceedings are allowed to continue.

Therefore, I am of the view that,

which the powers of this Court under Section 482 Cr.P.C. can be invoked.

6. It is true that one of the offences alleged against the petitioners is under section 326 of IPC.

However, it is seen from the records that, in respect of the very same incident, a crime bearing No.0111/2019 was registered by the Neyyar Dam Police Station against two accused persons, including the 2nd respondent herein. The offences alleged in the said Crime are under sections 294(b),341,324,308 r/w. section 34 of IPC and also under section 27 of the Arms Act. It is reported that, the settlement

between the parties is in respect

between the parties, which subsists in the form of CRL.MC No. 564 of 2022 6 two cases mentioned above, is settled. Therefore, to ensure peace among the relatives, it is only proper to show some indulgence in this case. In such circumstances, I am inclined to invoke the powers of

this Court under Section 482 of the Cr.PC even though the offence under section 326 is seen incorporated. Accordingly, this CrI.M.C. is allowed. All further proceedings in C.C.No.981/2019 pending before the Judicial First Class Magistrate Court, Kattakada, pursuant to Annexure-A2 final report submitted in Crime No.112/2019 of Neyyar Dam Police Station, Thiruvananthapuram Police Station are hereby quashed. Sd/- pkk ZIYAD RAHMAN A.A., JUDGE CRL.MC No. 564 of 2022 7 APPENDIX OF CRL.MC 564/2022 PETITIONERS ANNEXURES ANNEXURE A1 TRUE COPY OF THE FIR IN CRIME NO.112/2019 OF NEYYAR DAM POLICE STATION. Annexure A2 TRUE COPY OF THE FINAL REPORT IN CRIME NO.112/2019 OF NEYYAR DAM POLICE STATION. Annexure A3 AFFIDAVIT SWORN BY THE 2ND RESPONDENT.

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