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Prinjith vs State of Kerala

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SooperKanoon Citation : sooperkanoon.com/1452413

Court : Kerala

Decided On : Feb-28-2022

Judge : Honourable Mr. Justice K.Haripal

Appeal No. : Crl.MC/1162/2022

Appellant : Prinjith

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE K.HARIPAL MONDAY, THE 28TH DAY OF FEBRUARY 2022 / 9TH PHALGUNA, 1943 CRL.MC NO. 1162 OF 2022 CRIME 433/2015 OF CHOMBALA POLICE SATATION, KOZHIKODE PETITIONER/ACCUSED: PRINJITH AGED 29 YEARS KIZHAKKEPARAMBATH, KOROTH ROAD P.O., AZHIYUR KOZHIKODE DISTRICT, PIN - 673309 BY ADV K.S.ARUN KUMAR RESPONDENTS/STATE/DEFACTO COMPLAINANT : 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR HIGH COURT OF KERALA ERNAKULAM, PIN - 682031 2 DRISHIN CHAPPAYIL HOUSE, CHOMBALA PO, KOZHIKODE, PIN - 673308 BY ADVS. SR.PUBLIC PROSECUTOR SMT.V. SREEJA VIJAY SANKAR V.H.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28.02.2022, ALONG WITH Crl.MC.1190/2022, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE K.HARIPAL MONDAY, THE 28TH DAY OF FEBRUARY 2022 / 9TH PHALGUNA, 1943 CRL.MC NO. 1190 OF 2022 PETITIONER/ACCUSED: ROHITH K P AGED 29 YEARS PADIKKAL, KOROTH ROAD P.O., AZHIYUR KOZHIKODE DISTRICT, PIN - 673309 BY ADV K.S.ARUN KUMAR RESPONDENT/ STATE/DEFACTO COMPLAINANT: 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR HIGH COURT OF KERALA ERNAKULAM, PIN - 682031 2 DRISHIN AGED 27 YEARS CHAPPAYIL HOUSE, CHOMBALA PO, KOZHIKODE, PIN - 673308 BY ADVS. VIJAY SANKAR V.H.

OTHER PRESENT: SR.PP - SMT. SREEJA V. THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28.02.2022, ALONG WITH Crl.MC.1162/2022, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Crl.M.Cs.1162 & 1190 of 2022 3

O R D E R

These Crl.M.Cs are filed under Section 482 of the Code of Criminal Procedure seeking to quash Annexure-1 final report in crime 433/2015 of Chombala police station, Kozhikode registered against the petitioners who are accused 1 and 2 respectively and others. On conclusion of investigation, charge sheet was laid against five accused persons alleging offence under Sections 143, 147, 148, 341, 323, 324, 294(b) and 308 read with 149 of the IPC. Originally the case was taken on file as CP.16/2016 and the case against accused 3 to 5 were committed. They faced trial before the Assistant Sessions Court, Vatakara in S.C.454/2017 and by judgment dated 23.09.2021 were acquitted under Section 232 of the Cr.P.C. Now the case against the 1 st accused is pending as S.C. 411/2019 and that of the 2 nd accused, who is the petitioner in Crl.M.C.1190/2022, as S.C.474/2018, before the

Assistant Sessions Court, Vatakara.

2. The allegations against the accused persons, five in number, were

that, on 21.12.2015 at 18:00 hours they formed into an unlawful assembly, wrongfully restrained the defacto complainant/2nd respondent, assaulted and injured him using a wooden reeper and a punching block; when he fell down, Crl.M.Cs.1162 & 1190 of 2022 4 the accused persons attempted to attack aiming on his head, which he had resisted; if the hit had not been resisted by him, that would have turned fatal and that was how the offences were alleged against them. Now the petitioners contend that the matter is settled with the 2 nd respondent/defacto complainant and therefore entire proceedings are sought to be quashed.

3. I heard the learned counsel for the petitioners and also the learned Senior Public Prosecutor.

4. The learned Senior Public Prosecutor has confirmed the

settlement reached between the parties. In the affidavits, the 2 nd respondent has made it abundantly clear that the petitioners have settled the matter with him, he does not have subsisting grievance against them, they are long time friends and that he does not intend to proceed further in the case.

5. As noticed earlier, accused Nos.3 to 5 had faced trial and were

acquitted under Section 232 of the Cr.P.C. In that case the 2 nd respondent was examined as PW1 where he pleaded ignorant about the identity of the assailants. In the circumstances, there is no point in continuing the proceedings. No public interest is involved in the case; the 2 nd respondent did not suffer serious injuries in the incident and there is no legal impediment in quashing the proceedings. Thus entire proceedings in S.C. 411/2019 and Crl.M.Cs.1162 & 1190 of 2022 5 S.C.474/2018 on the file of the Assistant Sessions Court, Vatakara are quashed and the petitioners shall stand exonerated. The Crl.M.Cs are allowed as above. Sd/- K.HARIPAL JUDGE okb/28.2.22 //True copy// P.S. to Judge Crl.M.Cs.1162 & 1190 of 2022 6 APPENDIX OF CRL.MC 1162/2022 PETITIONER ANNEXURES

Annexure1 CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.433/2015 OF CHOMBALA POLICE STATION, KOZHIKODE DISTRICT Annexure2 CERTIFIED COPY OF THE JUDGEMENT IN SC NO.454/2017 OF THE HONBLE ASSISTANT SESSIONS COURT, VADAKARA Annexure3 THE AFFIDAVIT SWORN BY THE 2ND RESPONDENT Crl.M.Cs.1162 & 1190 of 2022 7 APPENDIX OF CRL.MC 1190/2022 PETITIONER ANNEXURES Annexure-I TRUE COPY OF THE FINAL REPORT IN CRIME NO.433/2015 OF CHOMBALA POLICE STATION, KOZHIKODE DISTRICT Annexure2 TRUE COPY OF THE JUDGEMENT IN SC NO.454/2017 OF THE HONOURABLE ASSISTANT SESSIONS COURT, VATAKARA Annexure3 THE AFFIDAVIT SWORN BY THE 2ND RESPONDENT

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