

Roland Vs State of Kerala Represented by the Public Prosecutor

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Court : Kerala

Decided On : Jun-01-2022

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

Appeal No. : Crl.MC/2238/2022

Appellant : Roland

Respondent : State of Kerala Represented by the Public Prosecutor

Advocate for Pet/Ap. : Sri. B. Mohan Lal

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
WEDNESDAY, THE 1ST DAY OF JUNE 2022 / 11TH JYAISHTA, 1944
CRL.MC NO. 2238 OF 2022 AGAINST SC 300/2022 OF ADDITIONAL
DISTRICT COURT & SESSIONS COURT - VI, KOLLAM/ V ADDL.MACT
PETITIONER/S: ROLAND AGED 38 YEARS CHEKKUMMOODU WEST
HOUSE, EAST WEST NAGAR-47, THANGASSERY, KOLLAM , PIN -
691012 BY ADVS. B.MOHANLAL P.S.PREETHA SHINE N.S KARTHIK
J SEKHAR RESPONDENT/S: 1 STATE OF KERALA REPRESENTED
BY THE PUBLIC PROSECUTOR HIGH COURT OF KERALA,
ERNAKULAM, PIN - 682031 2 THE STATION HOUSE OFFICER,

KOLLAM WEST POLICE STATION CUTCHERY P.O., KOLLAM , PIN - 691013 3 SRI.GILBERT NORBERT CHEKKUMMOODU WEST HOUSE, EAST WEST NAGAR-47, THANGASSERY, KOLLAM, PIN - 691012 BY ADV MANSOOR ALI

OTHER PRESENT: ADV VIPIN NARAYAN - PP THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 01.06.2022, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Crl. M.C. No. 2238 of 2022 -2-

JUDGMENT

Dated this the 1st day of June, 2022 The petitioner is the sole accused in Crime No. 990 of 2021 of Kollam West Police Station which is now pending as SC No. 300 of 2022 before the Additional District and Sessions Court - VI, Kollam. The aforesaid crime was registered for the offences punishable under Sections 323, 324 and 307 of the Indian Penal Code.

2. The prosecution case is that on 20.08.2021 at 09:00 p.m., the

petitioner herein assaulted the 3rd respondent, who is none other than the brother of the petitioner, residing along with the petitioner in the very same house, with a broken bottle and inflicted serious injuries on him. Annexure A1 is the FIR and Annexure A2 is the final report submitted by the Police.

3. This Crl. M. C. is filed for quashing all further proceedings

pursuant to Crime No. 990 of 2021 of Kollam West Police Station pending as S.C. No. 300 of 2022 on the files of the Additional District and Sessions Court - VI, Kollam. Crl. M.C. No. 2238 of 2022 -3-

4. Heard Sri. B. Mohan Lal, learned counsel for the petitioner, Sri. Vipin Narayanan, learned Public Prosecutor appearing for respondents 1 and 2 and Sri. Mansoor Ali, learned counsel appearing for the 3rd respondent.

5. The prayer for quashing the proceedings is sought mainly for

the reason that the dispute between the parties has been settled and to substantiate the same, Annexure A4 affidavit sworn by respondent No. 3 is produced. The fact of settlement is acknowledged in the aforesaid affidavit and it is also specifically stated that the 3 rd respondent has no subsisting grievances against the petitioner herein. The 3rd respondent also clearly expressed his no objection in quashing the proceedings against the petitioner. The learned counsel appearing for the 3 rd respondent also confirms the aforesaid settlement and supports the prayer sought for by the petitioner herein.

6. It is true that offence under Section 307 is one of the offences

alleged against the petitioner. Usually, since the offence is of serious nature, quashing of the proceedings on the basis of settlement is not possible. However, in this case, when I carefully examine the contents of the final report and the peculiar facts and circumstances of the case, CrI. M.C. No. 2238 of 2022 -4- I notice the following aspects.

7. Firstly, the petitioner and the de facto complainant are

brothers and both of them are residing under the same roof. It is discernible from the materials that both of them were in a drunken stage at the relevant time and the incident occurred during a scuffle between them while both of them were drinking together. It is an incident occurred inside their residence and the accused also reported to have sustained some injuries. When all the aforesaid aspects are taken into consideration, an intention to commit the murder on the part of the petitioner could not be established.

8. In such circumstances, taking into account the close

relationship between the parties who are residing under the same roof, I deem it appropriate to invoke the jurisdiction under Section 482 Cr.P.C. to maintain peace among them.

9. In addition to that learned counsel for the petitioner brought

my attention to the specific statement given by the 3rd respondent in the affidavit sworn by him wherein it is mentioned that he never intended to give the statement in the manner recorded by the Police as against his brother. Crl. M.C. No. 2238 of 2022 -5-

10. In such circumstances, when all the above aspects are taken into consideration, it is highly doubtful whether the offence under Section 307 would get attracted or not.

11. 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 Cr.P.C. can be invoked. Accordingly this Crl.M.C. is allowed. All further proceedings in

SC No. 300 of 2022 before the Additinal District and Sessions Court - VI, Kollam pursuant to Crime No. 990 of 2022 of Kollam West Police Station are hereby quashed.

Sd/- ZIYAD RAHMAN A. A. JUDGE Eb ///TRUE COPY/// P. A. TO JUDGE Crl. M.C. No. 2238 of 2022 -6- APPENDIX OF CRL.MC 2238/2022 PETITIONER ANNEXURES Annexure1 THE TRUE COPY OF FIR IN CRIME NO:990/2021 OF KOLLAM WEST POLICE STATION IN KOLLAM DISTRICT Annexure2 THE TRUE COPY OF THE FINAL REPORT IN CRIME NO: KOLLAM DISTRICT BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT-III, KOLLAM Annexure3 THE TRUE COPY OF THE SUMMONS ISSUED FROM THE VI ADDITIONAL DISTRICT AND SESSIONS JUDGE, KOLLAM TO THE PETITIONER. Annexure4 THE TRUE COPY OF THE AFFIDAVIT DATED 30/03/2022 SUBMITTED BY THE 3RD RESPONDENT FOR COMPOUNDING.

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