

Bindhu vs State of Kerala

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Court : Kerala

Decided On : Jul-29-2022

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

Appeal No. : Crl.MC/4588/2022

Appellant : Bindhu

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A. FRIDAY,
THE 29TH DAY OF JULY 2022 / 7TH SRAVANA, 1944 GANDHINAGAR POLICE
STATION, KOTTAYAM PETITIONERS: 1 BINDHU AGED 47 YEARS
KARUKACHERIL HOUSE, THELLAKOM P.O, KOTTAYAM DISTRICT, PIN -
686630 2 ANU.P.MOHANAN AGED 26 YEARS PALAKAPURATHU HOUSE,
SREEKANDAMANGALAM P.O, KOTTAYAM DISTRICT, PIN - 686562 BY ADV
K.G.GOPAKUMAR RESPONDENTS:

1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM THROUGH STATION
HOUSE OFFICER, GANDHI NAGAR POLICE STATION, KOTTAYAM

DISTRICT, PIN - 682031 2 MANMADHAN AGED 58 YEARS
POOJAVELIYIL HOUSE, KOKKOTHAMANGALAM P.O, CHERTHALA,
ALAPPUZHA DISTRICT, PIN - 688527 BY ADVS. ADV JOSEPH RONY
JOSE ADV E.A.JOSE ADV SREEJA V -SR PP

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
29.07.2022, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

The petitioners are the accused in Crime No.655 of 2022 of Gandhi Nagar Police Station which was registered for the offences punishable under Sections 294(b), 323, 326 read with Section 34 of Indian Penal Code.

2. The prosecution case is that on 07.05.2022, at 3 p.m.,

the accused abused the 2nd respondent and also attacked him, thereby caused injuries to him. Annexure A is the First Information Report registered in this case and this CrI.M.C. is filed for quashing all further proceedings pursuant thereto.

3. Heard Sri.K.G. Gopakumar, learned counsel appearing for the petitioners, Smt.Sreeja V., learned Public Prosecutor appearing for the State and Sri.Joseph Rony Jose, learned counsel appearing 2nd respondent.

4. 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 C. 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.

5. 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.

6. It is true that one of the offences alleged against the

petitioners is under Section 326 of Indian Penal Code which is serious in nature. However, it is brought to my attention that, in connection with the very same incident the Gandhi Nagar Police

has registered Crime No.631/2022 wherein the 2nd respondent/defacto complainant in this case was the accused. As per order passed by this Court on 25.07.2022 in CrI.M.C. No.4595/2022, this Court has already quashed the proceedings against the 2nd respondent, on the basis of a settlement arrived at between the parties. Since the counter case against this crime is already quashed on the basis of settlement, it is only proper that the prosecution against the petitioner in this case also be quashed

so as to complete the terms of settlement. Therefore, I am inclined to invoke the jurisdiction of this Court under Section 482 of Cr.P.C. Accordingly, this CrI.M.C. is allowed. Annexure A First Information Report in Crime No.655/2022 of Gandhi Nagar Police Station and further proceedings pursuant thereto as against the petitioners are hereby quashed

Sd/- ZIYAD RAHMAN A.A. JUDGE scs APPENDIX OF CRL.MC 4588/2022
PETITIONER ANNEXURES Annexure A CERTIFIED COPY OF FIRST
INFORMATION REPORT IN CRIME NO. 655/2022 OF GANDHI NAGAR POLICE
STATION KOTTAYAM DISTRICT Annexure B THE REPORT FILED BY THE

POLICE IN CRIME NO. 655/2022 OF GANDHI NAGAR POLICE STATION.
Annexure C AFFIDAVAT OF SETTLEMENT FILED BY DEFACTO
COMPLAINANT/ 2ND RESPONDENT.

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