

Aswin Rag vs State of Kerala

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Court : Kerala

Decided On : Aug-22-2022

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

Appeal No. : Crl.MC/5146/2022

Appellant : Aswin Rag

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
MONDAY, THE 22ND DAY OF AUGUST 2022 / 31ST SRAVANA, 1944
CRL.MC NO. 5146 OF 2022 AGAINST THE ORDER/JUDGMENTCC
1301/2019 OF JUDICIAL MAGISTRATE OF FIRST CLASS -
II,THODUPUZHA PETITIONER/S:

1 ASWIN RAG AGED 26 YEARS S/O SURENDRAN,
NADUMPARAMBIL HOUSE, MUTHUKADE, P.O., PERUVANNAMOZHI
VIA, KOZHIKODE DISTRICT, PIN - 673528 2 AMEER KHAN AGED 24
YEARS S/O RIFAKKI, KARACKAD HOUSE, MEELACHIL TALUK,
POONJAR VILLAGE, ERATTUPETTA, NADAKKAL, P.O., KOTTAYAM

DISTRICT., PIN - 686121 3 ABIN DAS AGED 23 YEARS S/O SHIVADASAN, MURAMVIDI KUNNUMAL HOUSE, VELIMANA,P.O., THAMARASSERY, KOZHIKODE DISTRICT, PIN - 673582 BY ADV SMRUTHI SASIDHARAN

RESPONDENT/S:

1 STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031 2 MILTON WILLIAM RAJAN AGED 26 YEARS S/O WILLIAM RAJAN, THOTTUMKAL HOUSE, KATTAPPANA P.O., NERIYAMPARA, IDUKKI DISTRICT., PIN - 685531 3 JIBIN GEORGE AGED 23 YEARS S/O K.T. GEORGE, KALAKKUMVILAYIL HOUSE, CHERIYANAD VILLAGE, CHENGANNUR TALUK, KOLLAkadavu P.O., ALAPPUZHA DISTRICT., PIN - 690509 :2 :

4 RAFIN RAFEEK AGED 24 YEARS S/O RAFEEK. M , HASSAN HOUSE, KANYAKULANGARA, VEMBAYAM,P.O, NEDUMANGADU TALUK, THEKKADA VILLAGE, THIRUVANATHAPURAM DISTRICT., PIN - 5 MUHAMMED SINAN AGED 22 YEARS S/O MAJEED, P V HOUSE, MAYIL VILLAGE, KADOOR, CHERUPAZHASSI P.O, VIA KOLENCHERY, KANNUR DISTRICT, PIN - 670601 BY ADV.SRI. M.P. PRASANTH, SR.P. SRI.V.P. BRIJESH THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 22.08.2022, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: :3 :

ORDER

Dated this the 22nd day of August, 2022 The petitioners are accused Nos.1 to 3 in crime No.1188/2019 of Thodupuzha Police Station, which is now pending as C.C. No.1301/2019 before the Judicial First Class Magistrate's Court, Thodupuzha. The offences alleged against the petitioners are under Sections 294(b), 323, 341 read with Section 34 of the Indian Penal Code.

2. The prosecution case is that, on 01.10.2019, the

petitioners who are the students of Co-operative School of Law, Thodupuzha, assaulted respondent Nos.2 to 5 and caused injuries to them. Annexure-A1 is the final report submitted by the Police. This CrI.M.C. is filed for quashing all further proceedings pursuant to Annexure-A1 final report.

3. Heard Smt. Smruthi Sasidharan, the learned counsel

appearing for the petitioners, Sri. M.P. Prasanth, the learned Senior Public Prosecutor for the State and Sri. V.P. Brijesh, the :4 : learned counsel appearing for respondent Nos.2 to 5.

4. The prayer for quashing the proceedings is sought

mainly on the ground that the dispute between the parties has been settled. Annexures-A2 to A5 affidavits sworn by respondent Nos.2 to 5 are filed along with this CrI.M.C. to substantiate the settlement. In the said affidavits, respondent Nos.2 to 5 had specifically acknowledged the aforesaid settlement and also conveyed the no-objection to quash the proceedings against the petitioners herein. The learned counsel appearing for respondent Nos.2 to 5 also confirms the same. The learned Public Prosecutor, upon instructions, submitted that the Station House Officer concerned has verified the veracity of the same and found it to be genuine.

5. The allegations would reveal that the dispute is purely

private in nature. In such circumstances, by applying the principles laid down by the Honourable Supreme Court in Gian Singh v. State of Punjab and Another [(2012) 10 SCC 303], proceedings can be quashed by invoking the powers of this Court under Section 482 Cr.P.C. This is particularly because, on account of the settlement, no fruitful purpose would be served by :5 : allowing the prosecution to continue. In the result, this CrI.M.C. is allowed and Annexure-A1 final report submitted in crime No.1188/2019 of Thodupuzha Police Station and all further proceedings in C.C. No.1301/2019 on the files of the Judicial First Class Magistrate's Court, Thodupuzha, against the petitioners are hereby quashed. Sd/- ZIYAD RAHMAN A.A. JUDGE ncd The case number C.C. 1301/2019 on the file of

Judicial First Class Magistrate's Court, Thodupuzha mentioned in the final

order dated 22/08/2022 in Crl.M.C. 5146/2022 stands corrected

and substituted as C.C. No.1551/2019 wherever it occurs as per

order dated 11/11/2022 in Crl.M.A. No.1/2022 in Crl.M.C.

No.5146/2022. Sd/- Deputy Registrar :6 : APPENDIX OF CRL.MC 5146/2022
PETITIONER ANNEXURES Annexure A1 CERTIFIED COPY OF CHARGE
SHEET IN C.C. NO. 1301/2019 ON THE FILE OF THE J F C M COURT,
THODUPUZZHA

Annexure- A 2 AFFIDAVIT FILED BY THE 2ND RESPONDENTAnnexure-

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