

Afsal vs State of Kerala

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SooperKanoon Citation : sooperkanoon.com/1530600

Court : Kerala

Decided On : Oct-06-2022

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

Appeal No. : Crl.MC/6084/2022

Appellant : AFSAL

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
THURSDAY, THE 6TH DAY OF OCTOBER 2022 / 14TH ASWINA, 1944 CRL.MC
NO. 6084 OF 2022 AGAINST THE ORDER/JUDGMENT CC 323/2021 ON THE
FILE OF JUDICIAL MAGISTRATE OF FIRST CLASS ,NADAPURAM WHICH
AROSE FROM CRIME NO.685/2020 OF NADAPURAM POLICE STATION,
KOZHIKODE PETITIONERS/ACCUSED NOS.1 TO 7:

1 AFSAL AGED 31 YEARS S/O POKKER, CHEERAMBATH HOUSE,
VISHNUMANGALAM(PO), KALLACHI, KOZHIKODE DISTRICT, PIN -
673056 2 ASLAM AGED 29 YEARS S/O POKKER CHEERAMBATH
HOUSE, VISHNUMANGALAM(PO) 3 RAFEEQ AGED 39 YEARS S/O

SOOPPY CHEERAMBATH HOUSE, VISHNUMANGALAM(PO)
KALLACHI, KOZHIKODE DISTRICT,, PIN - 673506 4 HAMEED AGED
53 YEARS S/O KUNHALI MADATHIL HOUSE,
VISHNUMANGALAM(PO) 5 AFSAL@APPU AGED 32 YEARS S/O
HAMEED MADATHIL HOUSE, VISHNUMANGALAM(PO) 6 BASHEER
K.P AGED 33 YEARS S/O ABDUL LATHEEF KUNHIPARAMBATH
HOUSE, VISHNUMANGALAM (PO), 7 RAFEEQ AGED 39 YEARS S/O
AALI

VATTAKANDI HOUSE, VISHNUMANGALAM (PO), BY ADV
M.P.PRIYESHKUMAR RESPONDENTS/STATE & COMPLAINANT: 1 STATE OF
KERALA REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM, KOCHI, PIN - 682031 2 ABDUL BASHEER AGED 48
YEARS S/O ABDULLA KOTTALANTAVIDA HOUSE, CHERUMOTH (PO),
VALAYAM, KOZHIKODE DISTRICT,, PIN - 673517 BY ADV DIVYA T.P. ADV C S
HRITHWIK-SENIOR PUBLIC PROSECUTOR THIS CRIMINAL MISC. CASE
HAVING COME UP FOR ADMISSION ON 06.10.2022, THE COURT ON THE
SAME DAY PASSED THE FOLLOWING:

ORDER

Dated this the 6th day of October, 2022 The petitioners are the accused no. 1 to 7
in crime No.685/2020 of Nadapuram Police Station, which is now pending as C.C
No. 323/2021 before the Judicial First Class Magistrate Court, Nadapuram. The
offences alleged against the petitioners are under Sections 143, 147, 148, 341,
323, 324 and read with 149 of the Indian Penal Code.

2. The prosecution case is that, on 04.10.2020

at 20.00 hours, the petitioners formed into unlawful assembly, wrongfully
restrained the 2nd respondent, defacto complainant and assaulted him. Annexure-
A is the F.I.R. and Annexure-B is the final report submitted by the Police. This
Crl.M.C. is filed for quashing all further proceedings pursuant to Annexure-B final
report.

3. Heard Sri. M.P Priyesh Kumar, the learned

counsel appearing for the petitioners, Sri. C.S Hridwik, the learned Senior Public Prosecutor for the State and Smt. Divya T.P, learned counsel for the 2nd respondent.

4. The prayer for quashing the proceedings is

sought mainly on the ground that the dispute between the parties has been settled. Annexure-C affidavit sworn by the 2nd respondent is filed along with this Crl.M.C. to substantiate the settlement. In the said affidavit, the 2nd respondent had specifically acknowledged the aforesaid settlement and also conveyed the no-objection to quash the proceedings against the petitioner herein. The learned counsel appearing for the 2nd respondent 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 allowing the prosecution to continue. In the result, this Crl.M.C. is allowed and Annexure- B final report submitted in crime No.685/2020 of Nadapuram Police Station and all further proceedings in C.C No. 323/2021 on the files of the Judicial First Class Magistrate Court, Nadapuram, against the petitioners are hereby quashed. Sd/- ZIYAD RAHMAN A.A. JUDGE AP-6/10 APPENDIX OF CRL.MC 6084/2022 PETITIONER ANNEXURES Annexure A A TRUE COPY OF THE FIR IN CRIME NO.685/2020 OF NADAPURAM POLICE STATION, KOZHIKODE Annexure B A CERTIFIED COPY OF THE FINAL REPORT IN C.C.323/2021 ON THE FILE OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-I, NADAPURAM Annexure C AFFIDAVIT OF THE 2ND RESPONDENT DATED 23.05.2022