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V.Anilkumar vs State of Kerala

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Court : Kerala

Decided On : Oct-06-2022

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

Appeal No. : Crl.MC/6429/2022

Appellant : V.Anilkumar

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 CC 68/2019 OF JUDICIAL MAGISTRATE OF FIRST CLASS - I,PALAKKAD CRIME NO.976/2016 OF WALAYAR POLICE STATION, PALAKKAD PETITIONER/ACCUSED 1 TO 4:

1 V.ANILKUMAR AGED 55 YEARS SON OF CHATHUKUTTY, A2, JAWAHAR NAGAR COLONY, SALES TAX OFFICE ROAD, IRANHIPPALAM P.O. KOZHIKODE, PIN - 673006 2 SUNISH KUMAR K AGED 47 YEARS SON OF LATE ANILKUMAR, NARAYANEEYAM HOUSE, ULLIYERI P.O. KOZHIKODE, PIN - 673620 3 SREEJITH

AGED 36 YEARS SON OF MADHAVAN NAIR, CHEMBATH HOUSE, KANJIKODE P.O. PALAKKAD, PIN - 678621 4 SANTHOSH D. AGED 49 YEARS SON OF K.G. DIVAKARAN, THERUTHRA HOUSE, MITHRAKKERI P.O. ALAPPUZHA, PIN - 689595 BY ADVS. S.VINOD BHAT ANAGHA LAKSHMY RAMAN GREESHMA CHANDRIKA.R

RESPONDENTS/STATE & COMPLAINANT: 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682031 2 DR.O. KANNAPPAN AGED 69 YEARS SON OF ODAYAPPAN, JAWAHAR MAIN ROAD, NRI NAGAR, THENI, TAMIL NADU, PIN - 625531 BY ADV ADV E.NARAYANAN ADV SREEJA V -SR PP THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 06.10.2022, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

The petitioners are the accused in Crime No.976/2016 of Walayar Police Station which is now pending as C.C. No.68/2019 pending before the Judicial First Class Magistrate Court I, Palakkad. The offences alleged against the petitioners are under Sections 420, 465 read with Section 34 of Indian Penal Code.

2. The allegation against the petitioners is that, the 1st

petitioner obtained the power of attorney of the 2nd respondent on the representation that he would get necessary permissions for him to start a Medical College in the name of V.N. Public and Health Education Trust. However, by misusing said power of attorney, the accused persons, created certain documents without the knowledge and consent of the 2nd respondent/defacto complainant and had also taken away certain medical equipments from the hospital of the 2nd

respondent. Annexure A1 is the First Information Report and Annexure A2 is the final report submitted by the Police. This Crl.M.C. is filed for quashing all further proceedings pursuant to Annexure A2.

3. Heard Sri.S.Vinod Bhat, learned counsel for the petitioners, Smt.Sreeja V., learned Public Prosecutor for the State and Sri.E.Narayanan, learned counsel for the 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 defacto complainant has sworn Annexure A3. The aforesaid affidavit indicates that, the matter has been settled and the defacto complainant 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/defacto complainant 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 defacto complainant 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.

Accordingly, this Crl.M.C. is allowed. Annexure A2 Final Report in Crime No.976/2016 of Walayar Police Station and all further proceedings in C.C. No.68/2019 pending before the Judicial First Class Magistrate Court I, Palakkad as against the petitioners are hereby quashed.

Sd/- ZIYAD RAHMAN A.A. JUDGE scs APPENDIX OF CRL.MC 6429/2022 PETITIONER ANNEXURES Annexure A1 CERTIFIED COPY OF THE FIR

DATED 23.12.2016 OF WALAYAR POLICE STATION (CRIME NO.976/2016) Annexure A2 CERTIFIED COPY OF FINAL REPORT NO.715/2018 DATED 20.12.2018 OF WALAYAR POLICE STATION Annexure A3 AFFIDAVIT OF THE 2ND RESPONDENT DATED 27.08.2022

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