

Jihad vs State of Kerala

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Court : Kerala

Decided On : Oct-14-2022

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

Appeal No. : Crl.MC/6714/2022

Appellant : JIHAD

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.
FRIDAY, THE 14TH DAY OF OCTOBER 2022 / 22ND ASWINA, 1944
CRL.MC NO. 6714 OF 2022 AGAINST THE ORDER/JUDGMENTSC
127/2018 OF ADDITIONAL SUB COURT,ATTINGAL
PETITIONER/ACCUSED:

1 JIHAD AGED 29 YEARS S/O.MOOSAKUNJU, MOOSAMANZIL,
MADANDAPACHA MADAKKU PARA, PUTHUSSERY MUKKU,
KARAVARAM VILLAGE, THIRUVANANTHAPURAM DISTRICT - , PIN -
695605 2 PREMLAL AGED 30 YEARS S/O.MOHANAN, JALAJA
MANDIRAM, MATHAYIL DESOM, VELLALLOOR VILLAGE,

THIRUVANANTHAPURAM DISTRICT - , PIN - 695102 3 SAJEER
AGED 26 YEARS S/O.SAINULABDEEN, MULAVANAPUTHAN VEEDU,
CHITHRANALLOOR, VELLALLOOR VILLAGE,
THIRUVANANTHAPURAM DISTRICT - , PIN - 4 GIRIKRISHNAN AGED
31 YEARS S/O.GOPALAKRISHNAN NAIR, KRISHNALAYAM,
PONGANADU, KILIMANOOR VILLAGE, THIRUVANANTHAPURAM
DISTRICT, PIN - 5 NAJEEM AGED 28 YEARS S/O.HAKKIM, THASNI
MANZIL, PONGANADU, KILIMANOOR VILLAGE,
THIRUVANANTHAPURAM DISTRICT - , PIN - 695601 BY ADVS.

K.SIJU S.ABHILASH ANJANA KANNATH T.S.SREEKUTTY
RESPONDENT/STATE AND DEFACTO COMPLAINANT AND
INJURED:

1 STATE OF KERALA REPRESENTED BY PUBLIC
PROSECUTOR,HIGH COURT OF KERALA, ERNAKULAM, PIN -
682031 2 THE STATION HOUSE OFFICER KILIMANOOR POLICE
STATION, THIRUVANANTHAPURAM DISTRICT, PIN - 695601 3
JUMESH AGED 26 YEARS S/O.SHYLAJAN, J.J.BHAVAN,
POLACHIRA, KILIMANOOR VILLAGE, THIRUVANANTHAPURAM
DISTRICT - 695601, PIN - 695601 4 RITHIK AGED 27 YEARS
S/O.ANILKUMAR, CHARUVILA VEEDU, IRATTACHIRA, KUNNUMMEL
DESOM, PAZHAYAKUNNUMMEL VILLAGE,
THIRUVANANTHAPURAM DISTRICT - , PIN - 695601 5 ARUN AGED
36 YEARS S/O.RETNAKARAN, CHARUVILA PUTHEN VEEDU,
CHITTELAZHIKAM, CHARUPARA, PAZHAYAKUNNUMMEL VILLAGE,
THIRUVANANTHAPURAM DISTRICT - , PIN - BY ADV A.MUHAMMED
RAFFI

ADV C S HRITHWIK-SR PP THIS CRIMINAL MISC. CASE HAVING
COME UP FOR ADMISSION ON 14.10.2022, THE COURT ON THE
SAME DAY PASSED THE FOLLOWING:

ORDER

The petitioner is the accused in Crime No.933/2015 of Kilimanoor Police Station, which is now pending as S.C 127/2018 before the Assistant Sessions Court, Attingal. The offences alleged against the petitioner are punishable under Sections 143, 147, 148, 149, 323, 324, 506(ii), 427 and 308 of Indian Penal Code.

2. The prosecution case is that, the petitioners who were

followers of a students union namely KSU, due to political animosity, assaulted the students belonging to the rival students union namely SFI by forming themselves into an unlawful assembly on 07.07.2015 at 8.10.p.m. Annexure-1 is the FIR and Annexure-2 is final report submitted by the police. This CrI.M.C is filed for quashing all further proceedings pursuant thereto.

3. Heard Sri. Siju Kamalasanan, the learned counsel

appearing for the petitioner, Sri. C.S Hrithwik, the learned Public Prosecutor appearing for the State and Sri.A Muhammed Rafi, the learned counsel appearing for the respondents 3 to 5.

4. The prayer for quashing the above proceedings is sought for by the petitioner on the ground that, the dispute

between the parties has been settled and to substantiate the same, the injured persons/respondents Nos. 3 to 5 have sworn Annexures-3 to 5 affidavits. The aforesaid affidavits indicate that, the matter has been settled and the respondents 3 to 5 have no subsisting grievance against the petitioner herein. They also conveyed that they have no objection in quashing the proceedings

against the petitioner herein. The learned counsel for the respondents 3 to 5/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 respondents 3 to 5 have reiterated that, they do not have any objection in quashing the proceedings as they have no subsisting grievance against the petitioner 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 petitioner 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 is under Section 308

of Indian Penal Code. However, it is discernible from the records that, none of the victims sustained any serious injuries. Moreover, at the relevant time all the petitioners were students of the very same institution. Since all the disputes between them are settled, it is only proper that, the proceedings be quashed against them.

Accordingly, this Crl.M.C. is allowed. All further proceedings pursuant to Annexure-2, final report in Crime No.933/2015 of Kilimanoor Police Station, and all further proceedings in S.C.127/2018 which is now pending before the Assistant Sessions Court, Attingal as against the petitioner are hereby quashed.

Sd/- ZIYAD RAHMAN A.A JUDGE rpk APPENDIX OF CRL.MC 6714/2022
PETITIONER ANNEXURES Annexure1 THE CERTIFIED COPY OF FIR WITH
FIS IN CRIME NO.933/2015 OF KILIMANOOR POLICE STATION DATED
7.7.2015 Annexure2 THE CERTIFIED COPY OF FINAL REPORT DATED
29.8.2015 SUBMITTED BY THE SUB INSPECTOR OF POLICE, KILIMANOOR IN
CRIME NO.933/2015

Annexure3

THE AFFIDAVIT SWORN BY THE 3RD RESPONDE

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