

Shafeek vs the State of Kerala,

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Court : Kerala

Decided On : Apr-30-2021

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : Crl.MC/3734/2020

Appellant : Shafeek

Respondent : The State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS FRIDAY, THE 30TH DAY OF APRIL 2021 / 10TH VAISAKHA, 1943 CRIME NO.954/2020 OF Mavelikkara Police Station , Alappuzha PETITIONERS/ACCUSED 1 AND 2 :- 1 SHAFEEK AGED 31 YEARS S/O. KABEERKUTTY, DESATHINAKAM, KANDAMKUTTY BHAGOM, PERINGALA P.O., KAYAMKULAM, ALAPPUZHA DISTRICT. 2 KENNY R. AGED 36 YEARS S/O. K. BALACHANDRAN, PALAVILAYIL VEEDU, MANNATHIMOOLA, GANAPATHI AMBALAM, KADACKAVOOR, THIRUVANANTHAPURAM DISTRICT. BY ADVS. SRI.S.SHANAVAS KHAN SMT.S.INDU RESPONDENTS/STATE/DEFACTO COMPLAINANT :- 1 THE STATE OF KERALA, REPRESENTED BY

THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM. 2 PAVIPRAKASH S/O JAYAPRAKASH VISHNU BHAVANAM PALLARIMANGALAM MURI THEKKEKARA VILLAGE MAVELIKARA ALAPPUZHA DISTRICT - 690 107. R2 BY ADV. NISHAMOL.S SMT. SHYLAJA S. L, PP THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 30.04.2021, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: C.S.DIAS, J -----
Crl.M.C.No.3734 of 2020 -- - - - - Dated this the 30th day of April, 2021

ORDER

This petition is filed under Section 482 of the Code of Criminal Procedure.

2. The petitioners are the accused 1 and 2 in Crime

No.954 of 2020 of the Mavelikkara Police Station registered against them for the offences punishable under Sections 324 r/w Section 34 of the Indian Penal Code. Annexure-A is the FIR registered by the police as against the petitioners.

3. The prosecution allegation is that on 28.07.2020 the first petitioner had attacked the defacto complainant - 2nd respondent with a sharp weapon on his right hand and he sustained an injury. The second petitioner instigated the first petitioner to attack the second respondent. Thus the petitioners have committed the above offences.

4. Heard the learned counsel appearing for the

petitioners, the learned Public Prosecutor appearing for the first respondents and the learned counsel appearing for the second respondent. Perused the records.

5. The learned counsel for the petitioners submitted that with the intervention of well-wishers, the subject matter in dispute between the petitioners and the third respondent has been settled out of Court. The

learned counsel appearing for the 2nd respondent submitted that the second respondent has filed Annexure- B affidavit, inter-alia, stating that he has no subsisting grievance against the petitioners and is no longer desirous of pursuing the matter any further. The learned counsel vouched for the signature of the second respondent.

6. The learned Public Prosecutor, on instructions,

reported that the investigating officer has ascertained the genuineness of settlement and that the second respondent has admitted the execution of Annexure-B affidavit. The state has no serious objection in the petition being allowed.

7. The Hon'ble Supreme Court in Gian Singh vs. State of Punjab [2012 (10) SCC 303] and Prabatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and

others vs. State of Gujarat and another [(2017) 9 SCC 641] has held that in facts and circumstances of a case and to secure the ends of justice, where the High Court is satisfied that an amicable settlement has been arrived between the parties and the offence is not serious in nature involving mental depravity, criminal proceedings may be quashed.

8. After considering the facts and circumstances of

the case and on being convinced that ends of justice would justify the exercise of the inherent power of this Court, particularly since the alleged offences are not serious in nature, no public interest is involved, the chances of conviction is remote, the continuation of the proceeding would only be wastage of judicial time and the

settlement would augur harmony, I am satisfied that the petition is to be allowed. In the result, this Crl.M.C is allowed. Annexure-A FIR in Crime No.954 of 2020 of the Mavelikkara Police Station and all further proceedings pursuant to it as against the petitioners are quashed. Sd/- C.S.DIAS SMA JUDGE APPENDIX PETITIONER'S/S ANNEXURES : ANNEXURE A TRUE COPY OF THE FIR IN CRIME NO.954/2020 OF MAVELIKKARA POLICE STATION, ALAPPUZHA

DISTRICT. ANNEXURE B TRUE COPY OF THE AFFIDAVIT OF THE SECOND
RESPONDENT EVIDENCING THE FACTUM OF SETTLEMENT.
RESPONDENT(S) ANNEXURES :- NIL //TRUE COPY// PA TO JUDGE

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