

Binu vs State of Kerala

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Court : Kerala

Decided On : Oct-29-2021

Judge : Honourable Mrs. Justice M.R.Anitha

Appeal No. : Crl.MC/3830/2021

Appellant : BINU

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE M.R.ANITHA FRIDAY, THE 29TH DAY OF OCTOBER 2021 / 7TH KARTHIKA, 1943 CRL.MC NO. 3830 OF 2021 AGAINST THE ORDER/JUDGMENT IN CC 830/2017 OF JUDICIAL MAGISTRATE OF FIRST CLASS -II,KOTTARAKKARA, KOLLAM PETITIONERS/ACCUSED NOS.2 & 3: 1 BINU AGED 40 YEARS S/O. VIJAYAN, BINDU BHAVAN, THEVALAPPURAM, NEDUVATHOOR VILLAGE, KOLLAM DISTRICT. 2 VINEESH KUMAR AGED 36 YEARS S/O. VIJAYAN, MUKALUVILA, VADAKKETHIL, THEVALAPPURAM, NEDUVATHOOR, KOLLAM DISTRICT BY ADV RAJESH CHAKYAT RESPONDENTS/STATE & DEFACTO COMPLAINANT:

1 STATE OF KERALA REPRESENTED BY THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA , ERNAKULAM 682 031 2
REMANI KUMARY AGED 56 YEARS W/O. SUNDARESAN, GAYATHRI,
MALANADA MURI, PAVITHRESWARAM VILLAGE, KOTTARAKKARA
TALUK, KOLLAM DISTRICT 691 506 3 SOORAJ R. KRISHNA AGED 24
YEARS S/O. SUNDERASHAN, GAYATHRI HOUSE, NEAR MALANADA
SCHOOL, PAVITHARESHWARAM VILLAGE, KOLLAM DISTRICT
REPRESENTED BY HIS MOTHER REMANI KUMARY 691 506 SRI
RENJITH GEORGE,SR PP THIS CRIMINAL MISC. CASE HAVING
COME UP FOR ADMISSION ON

29.10.2021, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: -2-

ORDER

This Crl.M.C. has been filed seeking to quash the entire further proceedings pending against the petitioners in C.C.No.830/2017 on the file of the Judicial First Class Magistrate Court-II, Kottarakara, which arose out of crime No.1237/2017 of Puthoor Police Station, which has been registered for the offences punishable under Sections 323, 324, 354, 341, 294(b), 506 and 34 IPC.

2. It is alleged that out of some previous enmity towards

the defacto complainant, the first accused who is presently no more, with the intention and preparation to voluntarily cause hurt to the defacto complainant and defame her on 18.06.2017 at about 20 hours, abused the son of the defacto complainant and hit the son with an iron rod and when he tried to escape the other accused wrongfully restrained, assaulted him and when the defacto complainant tried to intervene, the second accused threatened to do away with her and thereby accused committed the offences aforementioned. -3-

3. The entire issues between the petitioners and the

defacto complainant have been amicably settled out of court. Affidavit duly sworn in by the defacto complainant has been produced on the side of the petitioners.

4. Adv. Biju C Abraham appeared on behalf of the defacto complainant and reports about the settlement arrived at between the parties. The first accused is no more.

5. The learned Public Prosecutor produced copy of the

report of the Inspector of Police along with copy of the signed statement of the defacto complainant. In the affidavit sworn in by the defacto complainant as well as in the copy of the statement produced from the side of the respondent, she has categorically stated about the settlement arrived at with the petitioners. She has no objection in quashing the FIR and all further proceedings against the petitioners in C.C.No.830/2017 on the file of the Judicial First Class Magistrate Court-II, Kottarakkara.

6. It has come out that the entire issues between the

petitioners and the defacto complainant have been amicably settled out of court. The entire issues between the parties are purely private in nature. No public interest is involved. Hence, the -4- continuation of proceedings against the petitioners in crime No.1237/2017 of Puthoor police station, would be an abuse of process of court. Hence, ends of justice demand quashment of the proceedings pending against the petitioners in the above crime. In the result, this CrI.M.C. stands allowed and all further proceedings pending against the petitioners C.C.No.830/2017 on the file of the Judicial First Class Magistrate Court-II, Kottarakkara is hereby quashed. Sd/- M.R.ANITHA JUDGE nkr -5- APPENDIX OF CRL.MC 3830/2021 PETITIONER ANNEXURE Annexure A1 CERTIFIED COPY OF THE FIR IN CRIME NO. 1237 OF 2017 OF PUTHOOR POLICE STATION, KOLLAM DISTRICT Annexure A2 CERTIFIED COPY OF THE CHARGE SHEET IN CRIME NO. 1237/2017 OF PUTHOOR POLICE STATION, KOLLAM DISTRICT. Annexure A3 AFFIDAVIT DATED 16-08-2021 SWORN BY THE 3RD RESPONDENT.

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