

Mushthakheem vs State of Kerala

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Court : Kerala

Decided On : Apr-29-2020

Judge : Honourable Mr.Justice C.S.Dias

Appeal No. : Crl.MC/1256/2020

Appellant : Mushthakheem

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE C.S.DIAS WEDNESDAY, THE 29TH DAY OF APRIL, 2020 /9TH VAISAKHA, 1942 CRL M.C.NO. 1256 OF 2020 (Crime No.1156/2019 of Thamarassery Police Station, Kozhikode Rural District) Petitioners/Accused Nos. 1 to 7 :

1. Mushthakheem, aged 17 years, S/o. Abdul Bari, Mother Viila, Kaithapoyil, Puthupady, Thamarassery Taluk, Represented by father & natural guardian Abdul Bari.
2. Midhilaj K.V., aged 18, S/o. Abdul Salim, Koyisra, Adivaram, Puthupady, Thamarassery Taluk, Kozhikode, Pin-673 586

3. Midhilaj V.K., aged 17, S/o. Ashraf, Njattumparambil, Kottarakkoth, Eangappuzha Village, Thamarassery Taluk, Represented by father & natural guardian Ashraf.

4. Ajnas P.C., aged 18, S/o. Maimuna, Padinjarechalil, Kottarakkoth, Eangappuzha Village, Thamarassery Taluk,

5. Fairroos, aged 17, S/o. Muhammed, Uliyadan Kunnummel, Kodenchery, Thamarassery Taluk, Kozhikode, Pin-673 580 Represented by father & natural guardian Muhammed.

6. Sufail @ Muhammed Sufail, aged 17, S/o. Majeed, Nadukunnummel, Kodenchery, Thamarassery Taluk, Kozhikode, Pin-673 580 Represented by father & natural guardian Majeed.

7. Muhammed Rasi A.K. @ Jasim, aged 17 years, S/o. Kunjumammed, Ayikothummel, Puthupady, Thamarassery Taluk, Kozhikode-673 586 Represented by father & natural guardian Kunjumammed. By Adv. Mathew Kuriakose Respondents/State & Victims :

1. State of Kerala, (Crime No.1156/2019 of Thamarassery Police Station), represented by the Public Prosecutor, High Court of Kerala, High Court.P.O., Ernakulam - 682 031.

2. Muhammed Fayis M.K., aged 17 years, S/o. Majeed, Mampillikkara Veedu, Chamal, Thamarassery, Kozhikode, Pin-673 615 Represented by father & natural guardian Majeed

3. Muhammed Hashir, aged 17 years, S/o. Basheer, Anapparapoyil, Puthupady, Thamarassery Taluk, Kozhikode, Pin-673 586 Represented by father & natural guardian Basheer

R1 BY PUBLIC PROSECUTOR SMT PUSHPALATHA M.K R2, R3 BY ADVOCATE J.KRISHNAKUMAR (ADOOR) THIS CRL M.C HAVING COME UP FOR ADMISSION ON 29.04.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

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

2. The petitioners are the accused 1 to 7 in Crime

No.1156/2019 of Thamarassery Police Station. They are alleged to have committed the offences punishable under Secs. 143,147, 341, 323, 506 and Sec.149 of the Indian Penal Code, and Secs. 3 and 4 of the Kerala Prohibition of Ragging Act, 1998.

3. The prosecution allegations, in brief, is that: the petitioners who are Plus Two students of Chemmarampatta Government HSS attacked had inflicted injuries on respondents 2 and 3, who were Plus One students of the same school. Thus, the petitioners have committed the above offences.

4. Heard the learned counsel for the petitioners, the learned Public Prosecutor and the learned counsel for the respondents 2 and 3 through video-conferencing.

6. The learned counsel for the petitioner argued that the subject-matter in dispute between the petitioners and the

respondents 2 and 3 has been settled out of Court. The learned counsel submitted that the respondents 2 and 3 have filed Annexures B and C affidavits, respectively, before this Court stating that all disputes between them with the petitioners have been settled. Hence, Annexure A FIR and all further proceedings in Crime No.1156/2019 of Thamarassery Police Station may be quashed.

7. The learned Public Prosecutor, on instructions, submitted that the subject-matter in dispute in the above case has been settled between the petitioners and the

respondents 2 and 3. The learned Public Prosecutor has ascertained from the respondents 2 and 3 regarding the settlement, and the respondents 2 and 3 have admitted the execution of Annexures B and C affidavits.

8. The learned counsel appearing for respondents 2 and 3 also submitted that the entire dispute between the parties has been settled out of Court. The learned counsel vouched for signatures of respondents 2 and 3 on Annexures

B and C affidavits, respectively. The learned counsel submitted that the respondents 2 and 3 have no objection in Annexure A FIR in Crime No.1156/2019 of Thamarassery Police Station and all further proceedings pursuant to it being quashed.

9. The Hon'ble Supreme Court in Gian Singh vs

State of Punjab [(2012) 10 SCC 303] has held that in appropriate cases, when the High Court is satisfied that amicable settlement has been arrived at between the parties, criminal proceedings can be quashed.

10. On a cumulative appreciation of the facts and

circumstances of the case, the submissions made by the learned counsel for the petitioners, the learned Public Prosecutor and the learned counsel for the respondents 2 and 3 and after going through Annexures B and C affidavits, and also in view of the law laid down by the Hon'ble Supreme Court in Gian Singh (supra) and also on finding that there is no public interest involved in this case, I am satisfied that

Annexure A FIR in Crime No.1156/2019 of Thamarassery Police Station can be quashed in view of the settlement between the parties. No useful purpose would be served in continuing the proceedings, as the chances of conviction is remote. It will only result in putting the defacto complainant and the petitioners to unnecessary inconvenience and hardship. The settlement arrived at between the parties would only auger to the interest of the community and enable the parties to live in peace and harmony.

11. In the result, this Crl M.C is allowed and the entire

proceedings in Annexure A FIR in Crime No.1156/2019 of Thamarassery Police Station and all further proceedings pursuant to it shall stand quashed under

Sec.482 of the Code of Criminal Procedure. The Crl M.C is allowed accordingly.
(Sd/-) C.S.DIAS JUDGE sks/29.4.2020

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