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Ajith Kumar vs State of Kerala

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SooperKanoon Citation : sooperkanoon.com/1864361

Court : Kerala

Decided On : Sep-27-2019

Judge : Honourable Mr. Justice Alexander Thomas

Appeal No. : Crl.MC/1910/2018

Appellant : Ajith Kumar

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS FRIDAY, THE 27TH DAY OF SEPTEMBER 2019 / 5TH ASWINA, 1941 Crl.MC.No.1910 OF 2018 AGAINST THE ORDER/JUDGMENT IN CC 1080/2017 OF JUDICIAL MAGISTRATE OF FIRST CLASS ,VARKALA CRIME NO.2183/2016 OF Varkala Police Station , Thiruvananthapuram PETITIONERS/ACCUSED:

1 AJITH KUMAR AGED 55 YEARS S/O.KRISHNAN, SREE VINAYAKAM HOUSE, TC.NO.29/1209(3), PALKULANGARA VILAYIL LANE , PETTA VILLAGE, THIRUVANANTHAPURAM. 2 KIRAN SONY AGED 25 YEARS W/O.SHAN LAKSHMANAN, SREE VINAYAKAM HOUSE, TC.NO.29/1209(3), PALKULANGARA VILAYIL LANE, PETTA

VILLAGE, THIRUVANANTHAPURAM. 3 SUDHA W/O.AJITHKUMAR, SREE VINAYAKAM HOUSE, TC.NO.29/1209(3), PALKULANGARA VILAYIL LANE, PETTA VILLAGE, THIRUVANANTHAPURAM. 4 ASHRAF S/O.KASIM, TC.38/204, POWER HOUSE ROAD, MANAKKAD VILLAGE, THIRUVANANTHAPURAM. BY ADVS. SRI.K.V.SABU SRI.AKHIL K SABU SRI.NIKHIL K SABU

RESPONDENTS/STATE & COMPLAINANT: 1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM. 2 SHAN LAKSHMANAN 28 YEARS, S/O.LAKSHMANAN, LAKSHMANA DALE HOUSE, NEAR PUTHEN CHANTHA MARKET, VETTOOR VILLAGE, THIRUVANANTHAPURAM-695312 Crl.MC.No.1910 OF 2018 2

3 LAKSHMANAN 60 YEARS, S/O.APPAVU CHETTIYAR, LAKSHMANA DALE HOUSE, NEAR PUTHEN CHANTHA MARKET, VETTOOR VILLAGE,THIRUVANANTHAPURAM-695312. 4 THANKAMANI D/O.AMMUKUTTY, W/O.LAKSHMANAN, AGED 54, LAKSHMANA DALE HOUSE, NEAR PUTHEN CHANTHA MARKET, VETTOOR VILLAGE,THIRUVANANTHAPURAM - 695 312. R1-2 BY ADV. SRI.SABU S.KALLARAMOOLA

OTHER PRESENT: SRI.P.N.SUMODU, PUBLIC PROSECUTOR THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 27.09.2019, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Crl.MC.No.1910 OF 2018 3

ALEXANDER THOMAS, J.

========== Crl.M.C. No. 1910 of 2018 ----------
Dated this the 27th day of September, 2019

ORDER

The petitioners herein are the accused in the impugned Anx.A1- FIR in

Crime No.2189/2016 of Varkala Police Station, Trivandrum district, registered for offences punishable under Secs.452, 341, 323, 324, 294(b). 506(ii), 427 and 354 of the Indian Penal Code, which has led to the institution of Anx-A2 Final Report in C.C. No.1080/2017 on the files of the Judicial First Class Magistrate Court-I, Varkala.

2. The learned Advocate appearing for the petitioners/accused and the

learned Advocate appearing for the contesting respondents 2 to 4 submits that the matter has now been settled through mediation conducted by the Mediation Centre attached to this Court. The Mediation Centre has also made available the mediation settlement agreement entered into between the parties on 31.5.2019 and in para (6) on Page 13 of the mediation settlement agreement dated 31.05.2019 entered into between the parties, it has been agreed that both parties will take steps for termination for quashment of the impugned criminal proceedings in C.C. No. 1080/2017 on the file of the Judicial First Class Magistrate Court-I, Varkala.

3. It is also submitted by both sides that Annexure-A4 crime No.2183/2016 of Varkala Police Station is the connected case between the Crl.MC.No.1910 OF 2018 4

parties, which has led to calendar case C.C.No. 644/2017 on the file of the Judicial First Class Magistrate Court-I, Varkala and the said criminal proceedings has already been quashed by this Court as per order dated 03.09.2019 in Crl.M.C.No.6266/2019 based on the settlement between the parties.

4. In a catena of decisions, the Apex Court has held that, in appropriate

cases involving even non-compoundable offences, the High Court can quash prosecution by exercise of the powers under Sec.482 of the Cr.P.C., if the parties have really settled the whole dispute or if the continuance of the prosecution will not serve any purpose. Here, this Court finds a real case of settlement between the parties and it is also found that continuance of the prosecution in such a situation will not serve any purpose other than wasting the precious time of the

court, when the case ultimately comes before the court. On a perusal of the petition and on a close scrutiny of the investigation materials on record and the affidavit of settlement and taking into account the attendant facts and circumstances of this case, this Court is of the considered opinion that the legal principles laid down by the Apex Court in the cases as in Gian Singh v. State

of Punjab reported in 2013 (1) SCC (Cri) 160 = (2012) 10 SCC 303 and Narinder Singh and others v. State of Punjab and anr. reported in

(2014) 6 SCC 466, more particularly paragraph 29 thereof, could be applied in this case to consider the prayer for quashment.

5. Accordingly, it is ordered in the interest of justice that the impugned

Anx.A1- FIR in Crime No.2189/2016 of Varkala Police Station, Trivandrum district, which has led to the institution of Anx-A2 Final Report in C.C. Crl.MC.No.1910 OF 2018 5

No.1080/2017 on the files of the Judicial First Class Magistrate Court-I, Varkala, and all further proceedings arising therefrom pending against all the accused will stand quashed. The petitioners will produce certified copies of this order to the Investigating Officer concerned and the competent court below concerned. Office of Advocate General will forward copy of this order to the Investigating Officer concerned, for necessary information.

With these observations and directions, the above Criminal Miscellaneous Case stands finally disposed of. SD/- ALEXANDER THOMAS JUDGE SKS Crl.MC.No.1910 OF 2018 6 APPENDIX PETITIONER'S/S EXHIBITS: ANNEXURE A1: COPY OF THE FIR BEARING NO.2189/16 DATED STATION. ANNEXURE A2: COPY OF THE F.I. STATEMENT GIVEN BY THE 2ND RESPONDENT DATED 24/11/2016. ANNEXURE A3: CERTIFIED COPY OF THE CHARGE DATED VARKALA POLICE STATION. ANNEXURE A4: A COPY OF THE FIR BEARING NO.2183/2016 DATED 23/11/2016 REGISTERED BY THE VARKALA POLICE STATION.

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