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Biju vs State of Kerala

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Court : Kerala

Decided On : Aug-30-2019

Judge : Honourable Mr. Justice Raja Vijayaraghavan V

Appeal No. : Crl.MC/2839/2019

Appellant : BIJU

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V FRIDAY, THE 30TH DAY OF AUGUST 2019 / 8TH BHADRA, 1941 Crl.MC.No.2839 OF 2019(D) IN C.C. NO.2971/2015 ON THE FILES OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT, PARAVUR IN CRIME NO.1680/20102 OF THE PARIPPALLY POLICE STATION, KOLLAM PETITIONERS/ACCUSED: 1 BIJU, AGED 39 YEARS, S/O.CHELLAPPAN, KUTHIRAVILA VEEDU, EDAVATTOM CHERI, MOOLAKKADA, PARIPPALLY, KOLLAM DISTRICT. 2 UNNI, AGED 44 YEARS, S/O.CHELLAPPAN, KUTHIRAVILA VEEDU, EDAVATTOM CHERI, MOOLAKKADA, PARIPPALLY, KOLLAM DISTRICT. BY ADVS. SRI.S.JATHIN DAS SRI.SREEKANTH S.NAIR RESPONDENTS/DE FACTO COMPLAINANT:

1 STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM. 2 SUB INSPECTOR OF POLICE, PARIPALLY POLICE STATION, PARIPALLY, 3 VENU, AGED 38 YEARS, S/O MURALI, PUTHUVAL PUTHANVEEDU, 4 BINU, AGED 36 YEARS, S/O MURALI, PUTHUVAL PUTHANVEEDU, 5 OMANA, AGED 62 YEARS, W/O MURALI, PUTHUVAL PUTHANVEEDU,

Crl.MC.No.2839 OF 2019(D) 2 R3 TO R5 BY ADV. SRI.M.ZIYAD R1 & R2 BY SRI. RAMESH CHAND, PUBLIC PROSECUTOR THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 30.08.2019, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Crl.MC.No.2839 OF 2019(D) 3

ORDER

This petition is filed under Section 482 of the Cr.P.C.

2. The petitioners herein are the accused in C.C. No.2971 of 2015 on

the file of the Judicial First Class Magistrate Court, Paravur. In the aforesaid case, they are being proceeded against for having committed offences punishable under Sections 323, 324 r/w. Section 34 of the IPC.

3. On 03.12.2012 at about 3 p.m., owing to previous enmity, the petitioners herein are alleged to have assaulted the party respondents and caused injuries.

4. Heard the learned counsel appearing for the petitioners, the party respondents and the learned Public Prosecutor.

5. The learned counsel appearing for the petitioners submitted that the victims and the offenders have arrived at a compromise and narrating the said

fact, the victims have filed separate affidavits before this Court. According to the learned counsel, the records would reveal that no serious injuries were sustained by the victims. The termination of proceedings would resolve a festering private dispute between the parties and it is prayed that the Crl.MC.No.2839 OF 2019(D) 4 proceedings be quashed.

6. The learned counsel appearing for respondent Nos.3 to 5 would also

refer to the affidavits sworn to by the victims and it is submitted that the parties have not only buried the hatchet, but also have decided to live peacefully in future. According to the learned counsel, no purpose would be served in dragging these proceedings.

7. The learned Public Prosecutor, on instructions, submitted that the petitioners are not persons with criminal antecedents and that the State has no grievance in quashing the proceedings as no public interest is involved.

8. It is thus borne out from the submissions made at the bar that the

parties have amicably settled their disputes on their own free will and without any kind of pressure, influence or coercion. The compromise, it is felt, is voluntary and genuine, and can be acted upon.

9. In Gian Singh v. State of Punjab1, the Apex Court has held that

in appropriate cases, the High Court can take note of the amicable resolution of disputes between the victims and the wrongdoer to put an end to the criminal proceedings. This view was reiterated in Narinder Singh v. State of Punjab2 and Yogendra Yadav and Others v. State of Jharkhand and Another3. 1 [(2012) 10 SCC 303] 2 [(2014) 6 SCC 466] 3 [(2014) 9 SCC 653]

10. Having considered the submissions advanced and on perusing the

records, it appears that the offences are entirely personal in nature and do not affect public peace or tranquility. The injuries allegedly inflicted by the petitioners cannot be said to be grave and serious having ingredients of extreme mental depravity. It is also felt that quashing of proceedings on account of compromise would bring about peace. In a case such as the instant one, even if the prosecution is allowed to continue, it would not serve any purpose as the possibility of conviction is remote and bleak. It can only result in putting the victims and the accused to unwanted oppression and prejudice. Settlement will augur well

for the interest of the community and will enable the parties to live in peace and harmony.

In the result, this petition is allowed. Annexure-A2 final report and all further proceedings pursuant thereto against the petitioners now pending as C.C. No.2971 of 2015 on the file of the Judicial First Class Magistrate Court, Paravur are quashed. SD/- RAJA VIJAYARAGHAVAN V., JUDGE DSV/30.8.19 Crl.MC.No.2839 OF 2019(D) 6 APPENDIX PETITIONER'S/S EXHIBITS: ANNEXURE A1 CERTIFIED COPY OF FIR NO 1680/2012 DATED 3.12.2012 OF PARIPALLY POLICE STATION. ANNEXURE A2 CERTIFIED COPY OF CHARGE IN CC.NO 2971/2015 OF PARIPALLY POLICE STATION.

ANNEXURE A3 AFFIDAVIT DATED 1.4.2019 SWORN BY THE 3RDANN

RESPONDENT'S/S EXHIBITS: NIL //TRUE COPY// P.A.TO JUDGE

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