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Hari Vs. State of Kerala

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SooperKanoon Citation : sooperkanoon.com/51932

Court : Kerala

Decided On : May-28-2015

Judge : Honourable Mr.Justice v.Chitambaresh

Appellant : Hari

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE ALEXANDER THOMAS THURSDAY, THE28H DAYOF MAY20157TH JYAISHTA, 1937 Crl.MC.No.2673 of 2015 ---------- CRIME NO.402/2015 OF SOORANADU POLICE STATION,KOLLAM. .. PETITIONER'S/ACCUSED NO.1 TO5 ---------- 1. HARI,AGED23YEARS,S/O.SHIVAN PILLAI, RESIDING AT SHYAM BHAVAN,ANAYADI P.O, PIN-690561,SOORANADU NORTH VILLAGE, KUNNATHOOR TALUK,KOLLAM DISTRICT.

2. HARI,AGED23YEARS,S/O.KARUNAKARAN PILLAI, RESIDING AT LEKSHMI BHAVANAM,PARAKADAVU P.O, PIN-690561,SOORANADU NORTH VILLAGE, KUNNATHOOR TALUK,KOLLAM DISTRICT.

3. BINEESH,AGED27YEARS,S/O.BHUVANACHANDRAN NAIR, RESIDING AT MANGATTU AYYATHU,PADINJATTAKIZHAKKU, SOORANADUNORHT

P.O,PIN-690561, SOORANADU NORTH VILLAGE,KUNNATHOOR TALUK, KOLLAM DISTRICT.

4. ABHILASH,AGED22YEARS,S/O.MOHANAN, RESIDING AT MUKESH BHAVANAM,ANAYADI P.O, PIN-690561,SOORANADU NORTH VILLAGE, KUNNATHOOR TALUK,KOLLAM DISTRICT.

5. ARUN KRISHNAN,AGED23YEARS,S/O.RADHAKRISHNA PILLAI, RESIDING AT AMAL BHAVANAM,SOORANADU NORTH P.O, PIN-690561,SOORANADU NORTH VILLAGE, KUNNATHOOR TALUK,KOLLAM DISTRICT. BY ADV.SRI.LIJU. M.P RESPONDENT'S/COMPLAINT & DEFACTO COMPLAINANT: ----------
1. STATE OF KERALA,REPRESENTED BY THE SUB INSPECTOR OF POLICE, SOORANADU POLICE STATION,WHO IS REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM-682031. pto ...2... Crl.MC.No.2673 of 2015 ---------- 2. SAJITH,AGED28YEARS,S/O.SOMAN PILLAI, RESIDING AT PULIKULATHU VILAYIL, ANAYADI P.O,PIN-690561,SOORANADU NORTH VILLAGE, KUNNATHOOR TALUK,KOLLAM DISTRICT. R1 BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE. R2 BY ADVS.SRI.MANU RAMACHANDRAN SRI.C.PRAKASH THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON2805-2015, ALONG WITH CRL.MC26742015 THE COURT ON THE SAME DAY PASSED THE FOLLOWING: pk Crl.MC.No.2673 of 2015 ---------- APPENDIX PETITIONER'S ANNEXURES: ---------- ANNEXURE AI: CERTIFIED COPY OF FIR IN CRIME NO.402/2015 OF SOORANADU POLICE STATION, KOLLAM DISTRICT. ANNEXURE A2: ORIGINAL AFFIDAVIT OF2D RESPONDENT DATED284.2015. RESPONDENT'S ANNEXURES: NIL ---------- //TRUE COPY// P.S.TO JUDGE pk ALEXANDER THOMAS, J.

========== Crl.M.C.Nos.2673 & 2674 of 2015 ==========
Dated this the 28th day of May, 2015

ORDER

The petitioners in Crl.M.C.No.2674/2015 are the accused Nos.1 to 4 in Anx.A-1 Crime No.401/2015 of Sooranadu Police Station, Kollam district, registered for offences under Secs.143, 147, 148, 341, 323, 324, 506(2), 308, 149 of the IPC. The 2nd respondent in that case is the defacto complainant/injured in the said case. In Crl.M.C.No.2673/2015, the petitioners are accused Nos.1 to 5 in Anx.A-1 Crime No.402/2015 of Sooranadu Police Station, Kollam district, alleged for offences under Secs.143, 147, 148, 323, 324, 506(2), 308 and 149 of the IPC. The 2nd respondent in that case is the defacto complainant/injured in the said crime.

2. The allegation in Crl.M.C.No.2674/2015 is that during the annual festival at Konnakode Devi temple, Sooranadu North Village, a friction was occurred between persons belonging to two different political groups and that the 2nd respondent in that Crl.M.C. interfered and tried to pacify the physical commotion and Crl.M.C.2673/15 & cc - :

2. :- he has been manhandled by the petitioners therein, whereas the allegation in Crl.M.C.No.2763/2015 is also that during the annual festival (Ulthasavam) at Konnakode Devi Temple, Padirickal, Sooranadu North Village, the 2nd respondent in that case tried to pacify a physical commotion and he has been manhandled by the petitioners in that case and inflicted injuries, etc. It is to be noted that the defacto complainant in Crl.M.C.No.2673/2015, Sri.Sajith, is the 3rd petitioner in Crl.M.C.No.2674/2015. As already stated in Crl.M.C.No.2673/2015 the specific allegation is that the said Sri.Sajith had interfered and tried to pacify the physical commotion and that he has been manhandled and was inflicted injuries, etc., whereas the allegation in crime in Crl.M.C.No.2674/2015 is that the said Sri.Sajith is the accused in that crime and that he and others had manhandled the defacto complainant in that crime. The time, date and venue of both the incidents in these crimes are also same.

3. The petitioners in these Criminal Miscellaneous Cases submit that the entire incidents occurred due to differences of opinion between two political groups during a temple festival and that due to the intervention of well-meaning mediators, the disputes between the rival groups have been resolved to their Crl.M.C.2673/15 & cc - :

3. :- satisfaction and that peace and harmony have been retained. Accordingly, it is submitted that the 2nd respondent in Crl.M.C.No. 2674/2015 has sworn to affidavit as per Anx. A-2 in that case stating that the entire disputes have been resolved and that the impugned criminal proceedings in that crime could be quashed. So also the 2nd respondent in Crl.M.C.No.2673/2015 has sworn to an affidavit as borne out by Anx. A-2 stating that the disputes between the rival parties have been settled through mediation and that the said defacto complainant has no objection in the quashment of the impugned criminal proceedings in the crime in the said Crl.M.C. also. It is in the light of these aspects that the above Criminal Miscellaneous Cases have been filed with the prayer to quash the impugned criminal proceedings in both the Crl.M.Cs.

4. Heard Sri.C.Prakash, learned counsel for the petitioners in Crl.M.C.No.2674/2015 (who is also the counsel for R-2 defacto complainant in Crl.M.C.No.2673/2015), Sri.M.P.Liju, learned counsel for the petitioners in Crl.M.C.No.2673/2015 (who is also the counsel for R-2 defacto complainant in Crl.M.C.No.2674/2015) and the learned Public Prosecutor appearing for respondent State of Kerala. Crl.M.C.2673/15 & cc - :

4. :- 5. The learned counsel for the petitioners in both the Crl.M.Cs. submits that the impugned criminal proceedings in these two crimes may be quashed in the interest of justice. The learned Public Prosecutor submits that the said prayer for quashment may be considered in the light of the legal position laid down by the Apex Court and by this Court on the subject.

6. On a consideration of the facts and circumstances of these cases it is to be seen that the entire incidents occurred due to differences of opinion between two groups of political parties that happened during the occasion of a temple annual festival. The parties have now resolved their disputes and peace has been restored. On going through the allegations, to a great extent, it appears that the allegation of involving one of the accused as stated above who is the defacto complainant in the other case appears to be inherently contradictory going by the date, venue and time of the alleged incidents. Taking into consideration the fact that the incidents in the crimes occurred in the manner stated hereinabve and in

the light of the settlement of the disputes between the parties this Court is of the considered opinion that the prayer for quashment could be considered. Crl.M.C.2673/15 & cc - :

5. :- 7. Accordingly, it is ordered that in Crl.M.C.No.2674/2015 the impugned Anx.A-1 Crime No.401/2015 of Sooranadu Police Station, Kollam district, and all further proceedings arising therefrom pending against the petitioners stand quashed. In Crl.M.C.No. 2673/2015 it is ordered that the impugned A-1 Crime No. 402/2015 of Sooranadu Police Station, Kollam district and all further proceedings arising therefrom pending against the petitioners stand quashed. The Criminal Miscellaneous Cases are disposed as above. Sd/- sdk+ ALEXANDER THOMAS, JUDGE ///True copy/// P.S. to Judge

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