

Shamsudheen Vs. Illyas

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SooperKanoon Citation : sooperkanoon.com/65123

Court : Kerala

Decided On : Aug-19-2015

Judge : Honourable Mr. Justice Alexander Thomas

Appellant : Shamsudheen

Respondent : Illyas

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS WEDNESDAY, THE 19TH DAY OF AUGUST 2015 28TH SRAVANA, 1937 CrI.MC.No. 5512 of 2015 () ----- SC. NO.644/2014 OF ADDITIONAL DISTRICT & SESSIONS COURT, OTTAPALAM. PETITIONERS/ACCUSED: ----- 1. SHAMSUDHEEN, AGED 28 YEARS, S/O.BASHEER, PERUMBAYIL VEEDU, KANJIRAMPARA, ALANALLUR, MANNARKKAD TALUK, PALAKKAD DISTRICT.

2. SHAHIN, AGED 21 YEARS, S/O.BASHEER, PUTHENCODE PULAYAKALATHIL VEEDU, KARKITANKUNNU, ALANALLUR, MANNARKKAD TALUK, PALAKKAD DISTRICT.

3. SHAMSUDHEEN, AGED 24 YEARS, S/O.ABUBACKER, CHAKKIKULATHIL VEEDU, KARKITANKUNNU, ALANALLUR, MANNARKKAD TALUK, PALAKKAD DISTRICT.

4. AJEESH, AGED20YEARS, S/O.RADHAKRISHNAN, SREEVALSAM, ALUNGAL, KARKITANKUNNU, ALANALLUR, MANNARKKAD TALUK, PALAKKAD DISTRICT.

5. ANZAR, AGED21YEARS, S/O.ABUBACKER, PANANGADAN VEEDU, KARKITANKUNNU, ALANALLUR, MANNARKKAD TALUK, PALAKKAD DISTRICT.

6. ANAS, AGED21YEARS, S/O.ABDUL KHADER, MURINGAKODAN VEEDU, ALUNGAL, KARKITANKUNNU, ALANALLUR, MANNARKKAD TALUK, PALAKKAD DISTRICT.

7. RAZAK, AGED20YEARS, S/O.MUHAMMED ALI, APPATTU VEEDU, ALUNGAL, KARKITANKUNNU, ALANALLUR, MANNARKKAD TALUK, PALAKKAD DISTRICT. CrI.MC.No. 5512 of 2015 8. SHEMEER, AGED30YEARS, S/O.ABU, CHAKKIKULATHIL VEEDU, ALUNGAL, ALANALLUR, MANNARKKAD TALUK, PALAKKAD DISTRICT. BY ADV. SRI.P.JAYARAM. RESPONDENT(S):

----- 1. ILLYAS M., AGED36YEARS, S/O.SAIDALI, MURINGAKODAN HOUSE, KANHIRAMPARA, KARKITANKUNNU P.O., ALANALLUR, MANNARKKAD TALUK, PALAKKAD DISTRICT.

2. SIHABUDHEEN, AGED33YEARS, S/O.MUHAMMED, PARAMBILPEEDIKA HOUSE, KANHIRAMPARA, KARKITANKUNNU P.O., ALANALLUR, MANNARKKAD TALUK, PALAKKAD DISTRICT.

3. SAMEERALI, AGED35YEARS, S/O.HAMZA, KOLAKKATTIL HOUSE, KANHIRAMPARA, KARKITANKUNNU P.O., ALANALLUR, MANNARKKAD TALUK, PALAKKAD DISTRICT.

4. STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM. R1 TO R3 BY ADV. SRI.A.HAROON RASHEED R4 BY PUBLIC PROSECUTOR SRI.RAJESH VIJAYAN. THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON1908-2015, ALONG WITH CRL.MC. NO.5552 OF2015 THE COURT ON THE SAME DAY PASSED THE FOLLOWING: rs. CrI.MC.No. 5512 of 2015 APPENDIX

PETITIONER'S ANNEXURES:- ANNEXURE1: COPY OF THE FIRST INFORMATION REPORT AND FIRST INFORMATION STATEMENT IN CRIME NO. 92/2010 NATTUKAL POLICE STATION. ANNEXURE2: COPY OF THE CHARGE SHEET/FINAL REPORT IN CRIME NO.92/2010 NATTUKAL POLICE STATION SUBMITTED BEFORE THE MUNSIFF-MAGISTRATE, MANNARKKAD/ COMMITTAL COURT. ANNEXURE3: COPY OF THE MEMORANDUM OF EVIDENCE SUBMITTED BEFORE THE COMMITTAL COURT BY THE POLICE ALONG WITH THE FINAL REPORT IN CRIME NO.92/10 NATTUKAL POLICE STATION. ANNEXURE4: COPY OF THE WOUND CERTIFICATE RELATING TO1T RESPONDENT SUBMITTED BEFORE THE COMMITTAL COURT BY THE POLICE ALONG WITH THE FINAL REPORT IN CRIME NO.92/2010 NATTUKAL POLICE STATION. ANNEXURE5: COPY OF THE WOUND CERTIFICATE RELATING TO2D RESPONDENT SUBMITTED BEFORE THE COMMITTAL COURT BY THE POLICE ALONG WITH THE FINAL REPORT IN CRIME NO.92/2010 NATTUKAL POLICE STATION. ANNEXURE6: COPY OF THE WOUND CERTIFICATE RELATING TO3D RESPONDENT SUBMITTED BEFORE THE COMMITTAL COURT BY THE POLICE ALONG WITH THE FINAL REPORT IN CRIME NO.92/2010 NATTUKAL POLICE STATION. ANNEXURE7: AFFIDAVIT DATED3107-2015 SWORN TO AND EXECUTED BY THE DEPONENT/1ST RESPONDENT. ANNEXURE8: AFFIDAVIT DATED3107-2015 SWORN TO AND EXECUTED BY THE DEPONENT/2ND RESPONDENT. ANNEXURE9: AFFIDAVIT DATED3107-2015 SWORN TO AND EXECUTED BY THE DEPONENT/3RD RESPONDENT. RESPONDENT'S ANNEXURES:- NIL.
//TRUE COPY// P.S.TO JUDGE rs. ALEXANDER THOMAS, J.

===== CrI.M.C.Nos.5512 & 5552 of 2015 =====
Dated this the 19th day of August, 2015

ORDER

The petitioners in CrI.M.C.No.5512/2015 are accused Nos.1 to 8 in the impugned Anx.A2 final report/charge sheet filed in Crime No.92/2010 of Nattukal Police Station, registered for offences punishable under Secs.143, 147, 148, 294(b) 323, 324, 308, 341, 427, 452 read with 149 I.P.C., at the instance of the 1st respondent

therein, which has led to the institution of S.C.No. 644/2014 on the file of the Addl. Sessions Court, Ottapalam. The petitioner in Crl.M.C.No.5552/2015 is the 9th accused in the above referred crime, which has led to the institution of S.C.No.296/2015 on the files of the very same court. The prosecution case is that respondents 1 to 3 herein were inflicted with injuries by the accused persons (the petitioners herein) related to a quarrel inter se in connection with a football match. It is stated that now the entire disputes between the petitioners and the injured respondents in these Crl.M.Cs. have been settled amicably and that affidavits of the Crl.M.C.5512/15 & c.c - :

2. :- respective parties have also been filed in these cases, wherein it is stated that they have no objection for quashment of the impugned criminal proceedings pending against their opposite parties in the aforestated crime. It is in the light of these aspects that the petitioners have preferred the instant Criminal Miscellaneous Cases with the prayer to quash the impugned criminal proceedings against them.

2. 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 Crl.M.C.5512/15 & c.c - :

3. :- 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 SCC303 and Narinder Singh and others v. State of Punjab and anr. reported in (2014) 6 SCC466 more particularly paragraph 29 thereof, could be applied in this case to consider the prayer for quashment. Accordingly, it is ordered in the interest of justice that:- (i) In

Crl.M.C.No.5512/2015 the impugned Anx.A2 final report/charge sheet filed in Crime No.92/2010 of Nattukal Police Station, which has led to the institution of S.C.No. 644/2014 on the file of the Addl. Sessions Court, Ottapalam and all further proceedings arising therefrom pending against the petitioners therein stand quashed. (ii) in Crl.M.C.No.5552/2015 the impugned Anx.A2 final report/charge sheet filed in Crime No.92/2010 of Nattukal Police Station, Addl. institution of S.C.No.296/2015 on the file of the which Sessions to the has led Court, Ottapalam and all further proceedings arising therefrom pending against the petitioner therein stand quashed. With these observations and directions these Criminal Miscellaneous Cases stand finally disposed of. Sd/- sdk+ ALEXANDER THOMAS, JUDGE ///True copy/// P.S. to Judge

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