

(2021) 04 KL CK 0265

In the High Court Of Kerala

Case No : Criminal Miscellaneous Case No. 1671 Of 2021

Ali Akbar And Ors

APPELLANT

Vs

State Of Kerala And Ors

RESPONDENT

Date of Decision : 30-04-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482

Indian Penal Code, 1860 — Section 143, 147, 148, 149, 308, 320, 323, 326

Citation : (2021) 04 KL CK 0265

Hon'ble Judges : C.S. Dias, J

Bench : Single Bench

Advocate : E.A. Haris, Santhosh Peter

Final Decision : Allowed

Judgement

1. The petition is filed under Section 482 of the Code of Criminal Procedure.
2. The petitioners are the accused in Crime No.1088/2012 of the Pattambi Police Station, Palakkad registered against them for offences punishable under Sections 143, 147, 148, 323, 326 and 308 read with Section 149 of the Indian Penal Code. Annexure-1 is the final report filed by the Police after investigation in SC 255/2014.
3. The prosecution allegation is that on 22.10.2012 due to the political animosity between the petitioners and the de facto complainants "the respondents 2 and 3, the petitioners formed an unlawful assembly and attacked the respondents 2 and 3 with wooden sticks and caused simple hurt to them.
4. Heard the learned counsel appearing for the petitioners, the learned Public Prosecutor appearing for the 1st respondent and the learned counsel

appearing for the respondents 2 and 3. Perused the records.

5. The learned counsel appearing for the petitioners submitted that with the intervention of well-wishers, the subject matter in dispute between the petitioners and the respondents 2 and 3 has been settled out of court.

6. The learned counsel appearing for the respondents 2 and 3 submitted that the respondents 2 and 3 have filed Annexures 2 and 3 affidavits, inter alia, stating that they have no subsisting grievance against the petitioners and are no longer desirous of pursuing the matter any further as against the petitioners. The learned counsel vouched for the signature of the respondents 2 and 3 in Annexure-A2 and 3 affidavits.

7. The learned Public Prosecutor, on instructions, submitted that the Investigating Officer has ascertained the genuineness of the settlement and that the respondents 2 and 3 have admitted the execution of Annexure-2 and 3 affidavits. The State has no serious objection in the petition being allowed.

8. On an appreciation of the materials on record, it is found that the Police after investigation have incorporated the offence under Section 308 I.P.C

as against the petitioners. It is found that the petitioners had allegedly assaulted the respondents 2 and 3 with a wooden stick and only a simple injury

has been caused to them. In the said circumstances, I am of the considered opinion that the ingredients of Section 308 of the Indian Penal Code are

not attracted to incorporate the offence. All the other offences are compoundable falling within the fold of Section 320 of the Indian Penal Code.

There is no public interest involved and the injured have stated that they have no objection in the proceeding being quashed.

9. The Hon'ble Supreme Court in Gian Singh vs. State of Punjab [2012 (10) SCC 303] and Prabatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and

others vs. State of Gujarat and another [(2017) 9 SCC 641] has held that in facts and circumstances of a case and to secure the ends of justice, where

the High Court is satisfied that an amicable settlement has been arrived between the parties and the offence is not serious in nature involving mental

depravity, criminal proceedings may be quashed.

10. After considering the facts and circumstances of the case and on being convinced that ends of justice would justify the exercise of the inherent

power of this Court, particularly since the alleged offences are not serious in nature, no public interest is involved, the chances of conviction is remote,

the continuation of the proceeding would only be wastage of judicial time and the settlement would augur harmony, I am satisfied that the petition is to be allowed.

In the result, the Crl.M.C is allowed. Annexure-

1 final report in Crime No.1088/2012 of the Pattambi Police Station, Palakkad and all further proceedings in S.C No.255/2014 of the Additional Sessions Court -IV, Palakkad, as against the petitioners are quashed.