
(2010) 11 KL CK 0274
In the High Court Of Kerala
Case No : Criminal M.C. No. 4200 of 2009

Faisal	Vs	APPELLANT
State of Kerala		RESPONDENT

Date of Decision : 29-11-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 143, 147, 148, 149, 294

Citation : (2010) 11 KL CK 0274

Hon'ble Judges : Sasidharan Nambiar, J

Bench : Single Bench

Advocate : Rajit, for the Appellant; Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

M. Sasidharan Nambiar, J.—Petitioners are the accused in C.P. No. 112/2009 on the file of Judicial First Class Magistrate's Court, Kunnamkulam, taken cognizance for the offences under Sections 143, 147, 148, 324, 294(b) and 308 read with Section 149 of Indian Penal Code on Annexure-D final report. This petition is filed u/s 482 of Code of Criminal Procedure to quash the proceedings contending that the offences alleged against the Petitioners are purely personal in nature against Respondents 2 to 4 and in such circumstances, it is not in the interest of justice to continue the prosecution.

2. Respondents 2 to 4 appeared through a counsel and filed separate affidavits stating that they have settled all the disputes amicably and consequent to the settlement, it is not in the interest of justice to continue the prosecution.

3. Learned Counsel appearing for the Petitioners, Respondents 2 to 4 and learned Public Prosecutor were heard.

4. Prosecution case is that Petitioners, being the workers of Communist Party of India (Marxist), due to previous enmity with Respondents 2 to 4, who are the members of NDF, with the common object of causing injuries to Respondents 2 to

4, formed themselves into an unlawful assembly on 22.9.2009 at about 8.45 p.m. and when Respondents 2 to 4 were proceeding in a motor bike along the public road near the Patrol Bunk at Punnayoor Village Office, they were wrongfully restrained and caused hurt to Respondents 2 to 4. It is alleged that if the overt act aimed at the fourth Respondent was not evaded by him, it would have hit on his head and caused his death. In such circumstances, an offence u/s 308 of Indian Penal Code is also alleged.

5. Injuries sustained by Respondents 2 to 4 are only simple. Annexure-D final report establishes that offences alleged against the Petitioners are purely personal in nature. Affidavits filed by Respondents 2 to 4 establish that they have settled all the disputes with the Petitioners. As held by the Apex Court in *Madan Mohan Abbot v. State of Punjab* 2008 (3) KLT 19, when the offences alleged are purely personal in nature and the affidavits filed by Respondents 2 to 4 establish that they have settled all the disputes amicably, it is clear that consequent to the settlement, there is no likelihood of a successful prosecution. If so, it is not in the interest of justice to continue the prosecution.

Petition is allowed. C.P. No. 112/2009 on the file of Judicial First Class Magistrate's Court, Kunnamkulam is quashed.