
(2011) 05 KL CK 0030

In the High Court Of Kerala

Case No : Criminal M.C. No. 1060 of 2011

Nichusha and Others

APPELLANT

Vs

Anwar and State of Kerala

RESPONDENT

Date of Decision : 24-05-2011

Acts Referred:

Penal Code, 1860 (IPC) — Section 143, 147, 148, 149, 323

Citation : (2011) 05 KL CK 0030

Hon'ble Judges : Thomas P. Joseph, J

Bench : Single Bench

Advocate : Amjad Ali, for the Appellant; B.H. Ansil, for the Respondent

Judgement

Thomas P. Joseph, J.—Petitioners are accused 1 to 5 in Crime No. 1039 of 2009 of Munambom Police Station and C.C. No. 132 of 2011 of the court of learned Judicial First Class Magistrate, North Paravur for offences punishable under Sections 143, 147, 148, 323, 324 and 326 read with Section 149 of the Indian Penal Code. Prosecution case is that on 27.07.2009 at about 8.30 a.m. Petitioners due to previous enmity attacked the first Respondent/defacto complainant with sticks. Petitioners request to quash proceeding against them on the strength of a settlement reached with the first Respondent. I have heard learned Counsel for Petitioners, first Respondent and the learned Public Prosecutor.

2. Learned Public Prosecutor submitted that in the signed statement given by first Respondent to the Police, it is stated that there was an offer to pay certain amount to the first Respondent in connection with his treatment and that it was on the strength of that offer that he agreed to settle the case.

3. Learned Counsel appearing for first Respondent has produced the first Respondent in this Court. He stated that he has not given any such statement to the Police and that he does not want any compensation from Petitioners. He also stated that he has voluntarily agreed to settle the case with Petitioners. He

admitted genuineness of the affidavit produced in this Court and the signature therein. Learned Counsel for Petitioner and first Respondent have confirmed the settlement. Learned Counsel for first Respondent has also confirmed authenticity and genuineness of the affidavit sworn by the first Respondent. In that affidavit it is stated that the dispute is settled between him and Petitioners and that he has no further grievance against Petitioners.

4. It is true that offences involving public tranquility are also involved in this case. Petitioners allegedly assaulted first Respondent due to previous enmity. Having regard to the nature of the offences alleged and the motive involved, I am inclined to think that the proceeding could be terminated.

Resultantly Criminal Miscellaneous Case is allowed. Final report in Crime No. 1039 of 2009 of Munambom Police Station, cognizance taken thereon and proceeding against Petitioners in C.C. No. 132 of 2011 of the court of learned Judicial First Class Magistrate, North Paravur are quashed.