

(2010) 11 KL CK 0349
In the High Court Of Kerala
Case No : Criminal MC. No. 4160 of 2010

Sreekumar

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 23-11-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 143, 147, 149, 427, 447

Citation : (2010) 11 KL CK 0349

Hon'ble Judges : Sasidharan Nambiar, J

Bench : Single Bench

Advocate : R. Gopan, for the Appellant; Shajin S. Hameed, for the Respondent

Final Decision : Allowed

Judgement

M. Sasidharan Nambiar, J.—Petitioners are the accused in C.C. No. 328/2007 on the file of Judicial First Class Magistrate's Court-I, Neyyattinkara, taken cognizance for the offences under Sections 143, 147, 447, 427 and 506(i) read with Section 149 of Indian Penal Code on Annexure-A final report submitted by Sub Inspector of Police, Neyyattinkara Police Station. This petition is filed u/s 482 of Code of Criminal Procedure contenting that entire disputes with Respondents 2 and 3, the injured de facto complainant and the person who was intimidated, were settled amicably and in view of the settlement, it is not in the interest of justice to continue the prosecution.

2. Respondents 2 and 3 appeared through a counsel and filed separate affidavits stating that they have settled all the disputes amicably with the Petitioners and in view of the settlement, they have no objection for quashing the proceedings to maintain the cordial relationship between them.

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

4. Annexure-A final report shows that prosecution case is that with the common

object of constructing a way through the property of the first Respondent, Petitioners formed themselves into an unlawful assembly on 18.11.2006 at about 6.45 a.m. and in furtherance of the common object, trespassed into the property and cut and removed two trees causing a loss of Rs. 250/- and also intimidated the third Respondent and thereby committed the offences. Offences alleged are purely personal in nature against Respondents 2 and 3. As held by the Apex Court in Madan Mohan Abbot v. State of Punjab (2008 (3) KLT 19), when the offences are purely personal in nature and respondents have settled all the disputes amicably with the Petitioners, as is clear from their affidavits, it is not in the interest of justice to continue the prosecution, especially when consequent to the settlement, there is no likelihood of a successful prosecution.

Petition is allowed C.C. No. 328/2007 on the file of Judicial First Class Magistrate's Court-I, Neyyattinkara is quashed.