
(2021) 02 KL CK 0181

In the High Court Of Kerala

Case No : Criminal Miscellaneous No. 142 Of 2021

Sunoj Varghese And Ors

APPELLANT

Vs

State Of Kerala And Ors

RESPONDENT

Date of Decision : 16-02-2021

Acts Referred:

Indian Penal Code, 1860 — Section 143, 144, 147, 148, 149, 308, 447

Citation : (2021) 02 KL CK 0181

Hon'ble Judges : V.G. Arun, J

Bench : Single Bench

Advocate : Manu Ramachandran, M. Kiranlal, R. Rajesh, T.S. Sarath, Sameer M Nair, Ansu Varghese, T.R. Renjith

Final Decision : Allowed

Judgement

1. Petitioners are accused Nos. 2 to 5 in Crime No.194/2002 registered at the Pandalam Police Station for offences punishable under Sections 143, 144, 147, 148, 447, 308 r/w 149 of IPC, now pending as C.C.No.833/2011 on the files of the Judicial First Class Magistrate Court, Adoor. The case was originally numbered as C.C.No.623/2002. Accused Nos. 1 & 6, who alone faced trial in that case, were acquitted, since the de-facto complainant and other injured persons did not support the prosecution, since, by that time, the dispute had been resolved. The case against the absent accused/petitioner was split up and refiled as C.C.No.833/2011. The de-facto complainant, CW2 and CW3 are the aggrieved persons, of whom the de-facto complainant/CW1 and CW2 are no more and their death certificates are produced as Annexure-A2 and Annexure-A3. CW3, arrayed as the 3rd respondent has filed Annexure-A4 affidavit stating that the reason for the incident, which led to registration of the crime, has been resolved amicably, and hence, he has no grievance against the petitioners.

2. Heard the learned Public Prosecutor also, who, on instructions, submits that the petitioners have no criminal antecedents.

3. Having considered the gravity of the offences alleged, nature of the injury caused and having perused the affidavit filed by the 3rd respondent, the contents of which are submitted to be true and voluntary, I am satisfied that the dispute is settled and no public interest is involved in this matter. Moreover, in view of the settlement and acquittal of some of the accused, possibility of the criminal proceedings ending in conviction is remote. As such, continuance of the proceedings will amount to an abuse of process of court and hence, in view of the legal position set out by the Honourable Supreme Court in *Madan Mohan Abbot v. State of Punjab* [(2008) 4 SCC 582] and *Gian Singh v. State of Punjab and another* [(2012) 10 SCC 303], there is no impediment in granting the relief sought.

In the result, this Crl.M.C is allowed. Annexure-A1 Final Report in Crime No.194/2002 of Pandalam Police Station and further proceedings in C.C.No.833/2011 on the files of Judicial First Class Magistrate Court, Adoor are quashed.