

(2024) 11 KL CK 0064

High Court Of Kerala

Case No: Criminal Miscellaneous Petition Nos.1488 Of 2024 & 2622 Of 2022

Harris

APPELLANT

Vs

Kannan

RESPONDENT

Date of Decision: Nov. 19, 2024

Acts Referred:

- Code of Criminal Procedure, 1973 - Section 482
- Indian Penal Code, 1860 - Section 34, 307, 323, 324

Hon'ble Judges: A. Badharudeen, J

Bench: Single Bench

Advocate: K.V.Rashmi, P.M.Rafeek, Lakshmi Menon, Renjit George

Final Decision: Allowed

Judgement

A. Badharudeen, J

1. Crl.M.C.No.2622/2022 has been filed under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "Cr.P.C." for

short), by the 3rd accused in CP No.58/2021, to quash Annexure 4 protest complaint and all further proceedings thereto, now pending as CP

No.58/2021 on the files of the Judicial First Class Magistrate Court, Wadakkancherry.

2. Similarly, Crl.M.C.No.1488/2024 has been filed under Section 482 of Cr.P.C. by accused Nos.1 and 2 in CP No.58/2021 to quash Annexure D

protest complaint and all further proceedings thereto, now pending as CP.No.58/2021 on the files of the Judicial First Class Magistrate Court,

Wadakkancherry.

3. Heard the learned counsel for the petitioners, the learned counsel appearing for the de facto complainant and the learned Public Prosecutor.

4. In this matter, offences punishable under Sections 341, 323, 324 and 307 r/w 34 of the Indian Penal Code are alleged to have been committed by the accused.

5. As per the ratio in the decision of the Apex Court in State of Madhya Pradesh v. Laxmi Narayan and Others, reported in (2019) 5SCC 688, the

Apex Court dealt with the principles to quash criminal offences by invoking power under Section 482 of the Cr.P.C. and when dealing with offence

under Section 307 of IPC, it has been held as under:

“(iv) Offences under Section 307 IPC and the Arms Act, etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime

against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under Section 307 IPC and / or the Arms Act,

etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 Cr.P.C., on the ground that the parties have resolved

their entire dispute amongst themselves. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or

the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it

or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under Section 307 IPC. For this purpose, it would be open

to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delicate parts of the body, nature of weapons used, etc.

However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge-sheet is filed/charge is

framed and /or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paras 29.6 and

29.7 of the decision of the Supreme Court in Narinder Singh case should be read harmoniously and to be read as a whole and in the circumstances stated

hereinabove;”

6. On perusal of the wound certificate as that of injured persons, ie., Kannan and Sudheesh, the injuries are only lacerated wounds and the same not

inflicted on any vital or delicate of the parts of the body.

7. That apart, another crime (crime No.600/2019 of Wadakkanchery Police Station) also registered against the injured persons herein and the same

was ended in acquittal in SC 120/2021 since PW1 to PW3 therein did not support the prosecution. According to the learned counsel for the petitioners,

the said case was ended in acquittal since the matter has been settled.

8. It is also submitted by the learned counsel for the petitioners that the matter has been amicably settled and the de facto complainant filed affidavits

in this regard. The defacto complainant stated in the affidavits that she has no grievance against the accused.

9. Taking into account the above fact, there is no reason to disallow the prayer for quashment, so as to facilitate peaceful living of the parties

hereinafter. Therefore, in the interest of justice, I am inclined to allow this petition.

In the result, this petition stands allowed. The protest complaint and all further proceedings in CP No.58/2021 on the files of the Judicial First Class

Magistrate Court, Wadakkancherry, as against the petitioners, stand quashed.