

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE V.G.ARUN

FRIDAY, THE 30TH DAY OF OCTOBER 2020 / 8TH KARTHIKA, 1942

Cr1.MC.No.4358 OF 2020(D)

AGAINST THE JUDGMENT IN SC 625/2009 OF ASSISTANT SESSIONS
COURT,ATTINGAL

CRIME NO.35/2005 OF Attingal Police Station , Thiruvananthapuram

PETITIONER/5TH ACCUSED:

SHINE DAS
AGED 39 YEARS
S/O.SWAMINATHAN, MELLEKOCHU VEETIL, NEAR PUBARA
BRIDGE, MELATTINGAL DESAM, ALAMKODE VILLAGE,
TRIVANDRUM - 695 102.

BY ADV. SRI.M.R.SARIN

RESPONDENT/COMPLAINANT:

- 1 THE STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM - 682 031.
- 2 BALAJI C.
AGED 37 YEARS, S/O.CHELLAPPA, AJAY BHAVAN,
POKAMUKKU,MUDAKKAL, ELAMBA - MUDAKKAL,
AVANAVANCHERRY, THIRUVANANTHAPURAM - 695 103.
- 3 BAIJU S.
AGED 38 YEARS, S/O.SIVANANDAN, VATTAVILA VEEDU,
POOVANPARA, ALAMCODE, THIRUVANANTHAPURAM, KERALA -
695 103.

R2-3 BY ADV. VIDYA G NAIR

OTHER PRESENT:

SR.PP.AMJAD ALI

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
30.10.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

Dated this the 30th day of October 2020

Petitioner is the 5th accused in Crime No.35/2005 registered at the Attingal Police Station for offences punishable under Sections 143, 147, 148, 149, 341, 323 and 308 of IPC, now pending as S.C.No.625/2009 on the files of the Assistant Sessions Court, Attingal. The case was originally numbered as S.C.No.492/2008. As per Annexure-A3 judgment, co-accused except the petitioner was acquitted. The case against the petitioner was split up, refiled and re-numbered as S.C.No.625/2009. The *de facto* complainant and the other person injured are arrayed as respondents 2 and 3. Annexures-A5 and A6 affidavits have been filed by the said respondents stating that the reason for the

incident, which led to registration of the crime, has been resolved amicably, in view of the settlement and they have no subsisting grievance against the petitioner.

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

3. Having considered the gravity of the offences alleged, nature of the injury caused and having perused the affidavits filed by respondents 2 and 3, 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 the other accused for want of evidence, 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. The proceedings in S.C.No.625/2009 on the files of the Assistant Sessions Court, Attingal is quashed.

SB/30/10/2020

**Sd/-
V.G.ARUN
JUDGE**

APPENDIX

PETITIONER'S/S EXHIBITS:

ANNEXURE A1	THE TRUE COPY OF THE FIR IN CRIME NO.35/05 OF ATTINGAL POLICE STATION.
ANNEXURE A2	TRUE COPY OF THE FINAL REPORT IN FIR IN CRIME NO.35/05 OF ATTINGAL POLICE STATION.
ANNEXURE A3	THE TRUE COPY OF THE JUDGMENT IN SC NO.492/08 OF ASSISTANT SESSIONS COURT ATTINGAL.
ANNEXURE A4	THE TRUE COPY OF THE JUDGMENT IN CRL.MC 2160/20 OF THE HONBLE HIGH COURT OF KERALA.
ANNEXURE A5	THE AFFIDAVIT SWORN BY THE 2ND RESPONDENT.
ANNEXURE A6	THE AFFIDAVIT SWORN BY THE 3RD RESPONDENT.

//true copy// P.A to Judge