

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 14TH DAY OF JANUARY 2015/24TH POUSHA, 1936

Crl.MC.No. 133 of 2015 ()

**SC.NO. 762/2010 OF ASSISTANT SESSIONS COURT, NEYYATTINKARA
CMP.NO.5910/2009 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-III,
NEYYATTINKARA
CRIME NO. 333/2009 OF KOVALAM POLICE STATION. THIRUVANANTHAPURAM**

PETITIONER(S):

- 1. SUNANDA,D/O. KOMALAVALLY,
USHABHAVAN, PARAVILA PULISILAMOODU,
MUTTAKKAL, VENGANOOR VILLAGE, THIRUVANANTHAPURAM.**
- 2. SHARON, D/O. SUNANDA,
USHABHAVAN, PARAVILA PULISILAMOODU,
MUTTAKKAL, VENGANOOR VILLAGE, THIRUVANANTHAPURAM.**
- 3. ARJUNAN,
S/O. SADASIVAN, SAUPARNIKA, KOTTAKOODAM,
MANAPPURAM, MALAYINKIZHU, THIRUVANANTHAPURAM.**

BY ADV. SRI.V.R.GOPU

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN-682 031.**
- 2. S.I. OF POLICE,
KOVALAM POLICE STATION, THIRUVANANTHAPURAM-695 527.**
- 3. SWAPNA LAISON,
D/O. SUNANDA, USHABHAVAN, PARAVILA,
PULISILAMOODU, MUTTAKKAL, VENGANOOR VILLAGE,
THIRUVANANTHAPURAM-695 523.**

**R1 & R2 BY PUBLIC PROSECUTOR SRI.JIBU P. THOMAS
R2 BY ADV. SMT.K.PRIYADERSINI**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 14-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

sts

APPENDIX

PETITIONER(S)' ANNEXURES:

- ANNEX.1. THE TRUE COPY OF THE APPLICATION CMP NO. 5910/2009 ON THE
FILE OF JFMC III, NEYYATTINKARA DATED 24-7-2009.
- ANNEX.2. THE TRUE COPY OF THE PETITION FILED BY THE 3RD RESPONDENT
IN CMP NO. 5910/2009 DATED 9-10-2009.
- ANNEX.3. THE TRUE COPY OF THE PETITION FILED BY THE PETITIONERS IN
CMP NO. 5910/2009 DATED 15-4-2010.
- ANNEX.4. THE TRUE COPY OF THE ORDER IN CMP 5910/2009 OF THE JUDICIAL
FIRST CLASS MAGISTRATE-III, NEYYATTINKARA DATED 29-10-2010.
- ANNEX.5. THE COPY OF F.I.R. IN KOVALAM POLICE STATION CRIME NO. 333/09
DATED 27-7-2009.
- ANNEX.6. THE COPY OF THE CHARGE SHEET IN THE KOVALAM POLICE
STATION, CRIME NO. 333/09 DATED 3-10-2010.
- ANNEX.7. THE AFFIDAVIT FILED BY THE 3RD RESPONDENT DATED 5-1-2015.

RESPONDENT(S)' ANNEXURES:

NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

B.KEMAL PASHA, J.

Crl.M.C.No. 133 of 2015

Dated this the 14th day of January, 2015

ORDER

The petitioners are accused Nos.1 to 3 in Crime No.333 of 2009 of the Kovalam Police Station, which is presently pending as Sessions Case No.762 of 2010 before the Assistant Sessions Court, Neyyattinkara for the offences punishable under Sections 342, 323, 354 and 366 A read with Section 34 of the Indian Penal Code.

2. The 3rd respondent herein is the defacto complainant in the case. The petitioners 1 and 2 are the mother and sister of the 3rd respondent. The 3rd petitioner is the brother of the 1st petitioner and the maternal uncle of the 3rd respondent.

3. The prosecution case is that A1 to A3 with an intention of making more money, induced the 3rd respondent, who is CW1, a minor girl, to act in obscene advertisements and cinemas and also to dance in semi-

nude form and further to have sexual intercourse with others in some hotel at Ernakulam and Chennai for the period from 10.05.2007 to 24.7.2007. It is also alleged that as CW1 refused to do the above acts, she was illegally confined at her home from 18.07.2009 to 23.07.2009 and she was severely beaten up. It is also alleged that A3 had done several acts towards her by severely outraging her modesty.

4. According to the petitioners, the case as such was cooked up at the instance of CW3, who is the sister of the 1st petitioner and CW2, who is the daughter of CW3. The defacto complainant, who is the 3rd respondent herein, has entered appearance and has filed an affidavit affirming that the matter has been amicably settled and therefore, she does not want to proceed with the case.

5. Heard the learned counsel for the petitioners, learned counsel for the 3rd respondent and the learned Public Prosecutor.

6. The present case forwarded by the petitioners as

well as the 3rd respondent herein can only be accepted with a pinch of salt. On going through the records produced by the petitioners themselves, it is evident that the 3rd respondent had in unequivocal terms, made specific allegations repeatedly against these petitioners. The allegations are of very serious nature. It cannot be said that the matter involved is purely personal in nature. This is not a case that can be permitted to be compounded. The offences alleged against the petitioners are very grave and serious and there are specific allegations to substantiate the said offences. Of course, it is a matter of concern as to whether the 3rd respondent would support the prosecution or not. At the same time, the present concession from the part of the 3rd respondent procured by the petitioners, who claim that the 3rd respondent is presently in their custody, cannot be made use of, for the purpose of quashing the Final Report as well as the proceedings in the present case. Matters being so, this CrI.M.C. is devoid of merits, and is

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only to be dismissed, and I do so.

In the result, this CrI.M.C. is dismissed.

Sd/-
B.KEMAL PASHA
JUDGE

DSV/14/1/15

// True Copy //

P.A. To Judge