

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

Crl.MC.No. 536 of 2015

**SC 537/2011 OF SESSIONS COURT, THIRUVANANTHAPURAM.
CRIME NO. 154/2009 OF VILAPPILSSALA POLICE STATION, THIRUVANANTHAPURAM.**
.....

PETITIONER/ACCUSED:

**SHIBU K.S,
K.S.BHAVAN, PIRAMPILVILA, MUNGODE,
PEYAD P.O., THIRUVANANTHAPURAM.**

BY ADV. SRI.G.SUDHEER

RESPONDENT:

- 1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682031.**
- 2. LEKHA, D/O SAKUNTHALA,
KIZHAKKUMKARA PUTHEN VEEDU,
VALIYAKONATHU, KARODEMURI,
VILAPPIL VILLAGE, THIRUVANANTHAPURAM.**

**R1 BY PUBLIC PROSECUTOR SRI.JIBU P.THOMAS
R2 BY SRI.VISHNU BHUVANENDRAN**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 31-03-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' ANNEXURES:

- ANNEXURE A:** COPY OF FIR IN CRIME NO. OF 154/2009 OF VILAPPILSALA
POLICE STATION.
- ANNEXURE B:** COPY OF FINAL REPORT.
- ANNEXURE C:** COPY OF THE MARRIAGE CERTIFICATE.
- ANNEXURE D:** COPY OF BIRTH CERTIFICATE OF THE BABY OF
2ND RESPONDENT.
- ANNEXURE E:** COPY OF AFFIDAVIT SWORN BY 2ND RESPONDENT BEFORE
NOTARY.

RESPONDENT(S)' ANNEXURES: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

B.KEMAL PASHA, J.

Crl.M.C.No.536 of 2015

Dated this the 31st day of March 2015

ORDER

The accused in S.C. No.537/2011 of Sessions Court, Thiruvananthapuram registered for the offences under Sections 376 of the I.P.C. and 3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, which has arisen from Crime No.154/2009 of Vilappilsala police station, has come up under Section 482 Cr.P.C. for getting Annexure -B final report in the crime and all consequent proceedings based on it, in S.C. No.537/2011, quashed.

2. The prosecution case is that on a promise of marriage, the petitioner had enticed the *defacto complainant*, who is the second respondent herein, and subjected her to sexual intercourse on several occasions, by assuring that he would marry her. It is

alleged that thereafter, the petitioner had retracted from his promise and has not cared to marry her. It is alleged that the petitioner had subjected the *defacto complainant* woman is a member of a Scheduled Caste, and it was on the ground she was subjected to rape. The petitioner is not a member of Scheduled Caste or Scheduled Tribe. Presently, it seems that the petitioner has married the *defacto complainant* through the Special Marriage Act and a copy of the certificate of marriage has been produced. According to the petitioner, the matter has been amicably settled and he has married the *defacto complainant* and therefore, no purpose would be served in proceeding with the matter.

3. The *defacto complainant*, who is the second respondent herein, has entered appearance and filed an affidavit affirming that the matter has been settled between them and she has been married by the petitioner, and a daughter is born in their wedlock. Now, they are residing together as wife and husband.

4. Heard the learned counsel for the petitioner, the learned

counsel for the *defacto complainant*/2nd respondent and the learned Public Prosecutor.

5. The marriage of the petitioner and second respondent was conducted on 27.5.2011 as per the provisions of the Special Marriage Act and presently, they are residing together as husband and wife, and a daughter has been born in the wedlock. When the matter has been amicably settled, and the petitioner has married the *defacto complainant*, who is the second respondent herein, I am of the view that this is a fit case wherein Annexure -B final report in the crime and all consequent proceedings based on it, in S.C. No.537/2011, can be quashed.

In the result, this Crl.M.C. is allowed. Annexure -B final report in the crime and all consequent proceedings based on it in S.C. No.537/2011, are quashed.

Sd/-
B.KEMAL PASHA,
JUDGE

dl

// TRUE COPY //

PA to Judge