

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE B.KEMAL PASHA

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

Crl.MC.No.1224 of 2015

(CRIME NO.446/2014 OF VENGARA POLICE STATION,MALAPPURAM).

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PETITIONER/ACCUSED:

**MOHAMMED UNAISE,S/O.MOHAMMED K.V.,
KIRIYAN VEEDAN HOUSE,PARAKKANNI,
MALAPPARAMBA,OORAKAM,KEEZHMURI,
MALAPPURAM DISTRICT.**

BY ADV. SRI.P.M.RAFIQ

RESPONDENTS/DEFACTO COMPLAIANANT & STATE:

- 1. MUHSINA.P,W/O.MOHAMMED UNAISE,
PULAKKAL HOUSE,PARAKKANI,
MALAPPARAMBA,OORAKAM,KEEZHMURI,
MALAPPURAM DISTRICT-676301.**
- 2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,ERNAKULAM-682031.**

**R1 BY ADV.SRI.V.A.JOHNSON (VARIKKAPPALLIL)
R2 BY PUBLIC PROSECUTOR SRI.JIBU P.THOMAS**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 19-03-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

pk

Crl.MC.No.1224 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

**ANNEXURE A-TRUE COPY OF THE FIRST INFORMATION REPORT IN CRIME
NO.446/14 OF VENGARA POLICE STATION.**

**ANNEXURE B-TRUE COPY OF MARRIAGE CERTIFICATE OF PETITIONER AND
1ST RESPONDENT ISSUED BY OORAKAM PULLIKKAPARAMBA
JUMA MASJID DT. 09.2.15.**

**ANNEXURE C-TRUE COPY OF THE CERTIFICATE MARRIAGE DT. 11.2.15 BY THE
REGISTRAR OF MARRIAGES, MALAPPURAM MUNICIPALITY.**

**ANNEXURE D-THE AFFIDAVIT SWORN BY THE DEFACTO COMPLAINANT/1ST
RESPONDENT BEFORE THIS HONOURABLE COURT INFORMING
THE FACTUM OF SETTLEMENT.**

**ANNEXURE E-TRUE COPY OF THE MEMO FILED BY PETITIONER BEFORE THE
COURT OF JUDICIAL MAGISTRATE OF FIRST CLASS,
MALAPPURAM IN CRIME NO.446/14 OF VENGARA POLICE
STATION.**

RESPONDENT'S ANNEXURES:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

B.KEMAL PASHA, J.

.....
CRL. M.C. No.1224 of 2015
.....

Dated this the 19th day of March, 2015

ORDER

The petitioner, who is the sole accused in Crime No.446/14 of the Vengara Police Station, Malappuram registered for the offence punishable under Section 376(2) (n) of the Indian Penal Code, has come up under Section 482 Cr.P.C. for getting Annexure-A F.I.R. and all further proceedings in it in Crime No.446/2014 of the said Police Station, quashed.

2. The allegation against the petitioner is that by giving a promise of marriage, the petitioner has repeatedly subjected the defacto complainant, who is the first respondent herein, to sexual intercourse at her house, during the period of three months immediately preceding January 2014, and thereafter he has retracted from his

promise. According to the petitioner, he has married the first respondent on 16.01.2015 and their marriage has been registered on 11.02.2015. Annexure-C is the copy of the certificate of marriage.

3. The first respondent, who is the defacto complainant, has entered appearance and filed an affidavit affirming that the matter has been amicably settled and she has been married by the petitioner on 16.01.2015 and presently they are residing as husband and wife. She has also prayed for getting all the proceedings in the matter quashed.

4. Heard learned counsel for the petitioner, the learned counsel for the defacto complainant, who is the 1st respondent herein, and the learned Public Prosecutor.

5. The investigating officer has also produced the copy of the certificate of marriage of the petitioner and the first respondent. When the marriage has taken place, it seems that there is no room for any complaint for the

defacto complainant. The allegation, in order to bring out an offence under Section 376 IPC, is that the petitioner had subjected the defacto complainant to sexual intercourse by assuring that he would marry her and thereafter he has retracted from his promise. When the marriage itself was conducted, the crime is not in existence. When the parties are residing together as husband and wife, this Court is of the view that no purpose will be served in proceeding with the matter further and therefore, it is only just and expedient in the interest of justice to quash the proceedings referred to above.

In the result, this Crl.M.C. is allowed and Annexure-A F.I.R. and all further proceedings in it in Crime No.446/2014 of the Vengara Police Station, Malappuram, are hereby quashed.

Sd/- B.KEMAL PASHA, JUDGE

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[True copy]

P.S. to Judge