

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 8TH DAY OF SEPTEMBER 2015/17TH BHADRA, 1937

Crl.MC.No. 4335 of 2015 ()

CRIME NO. 863/2013 OF WADAKKANCHERRY POLICE STATION , PALAKKAD

PETITIONER(S)/DEFACTO COMPLAINANT AND VICTIM:

1. THAHIRA
W/O.ABBAS, DAM RONEL, MUDAPPALLUR P.O
PALAKKAD
2. APSANA, D/O.ABBAS
DAM RONEL, MUDAPPALLUR P.O, PALAKKAD

BY ADVS.SRI.NAGARAJ NARAYANAN
SRI.SAIJO HASSAN
SRI.BENOJ C AUGUSTIN
SRI.VISHNU BHUVANENDRAN

RESPONDENT(S):

1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM
2. THE SUB INSPECTOR OF POLICE
VADAKKANCHERRY POLICE STATION, PALAKKAD DISTRICT.

R1 & R2 BY PUBLIC PROSECUTOR SMT.REMA.R.

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
08-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 4335 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE I: TRUE COPY OF THE FIR DATED 22/3/2013

ANNEXURE II: TRUE COPY OF THE FINAL REPORT DATED 30/7/2013.

RESPONDENT(S)' EXHIBITS

/TRUE COPY/

P.S TO JUDGE

P.UBAID, J.
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**Crl.M.C No.4335 of 2015**  
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Dated this the 8th September, 2015

ORDER

A prosecution involving the offences under Sections 212, 366(A), 373 (3) and 376 of I.P.C and also under Section 4 of the Protection of Children from Sexual Offence Act is sought to be quashed by the victim Apsana. Crime in this case was registered on the complaint of the victim's mother. She is the first petitioner herein and the 2nd petitioner is the victim. The child was aged only 16 years at the time of the incident. The prosecution case is that the 1st accused, with the assistance of the others, took the victim in a vehicle to different places and subjected her to sexual intercourse. Now the complainant and the victim seek orders quashing the prosecution on the ground that the parties have come to terms amicably, that the victim is now happy in matrimony with another person, and continuance of the prosecution in such a situation will embarrass her present matrimony. In fact, on a perusal of the proceeding, I find that this is a case of elopement, but the police made

investigation and submitted final report finding a case of statutory rape, since the victim was aged only 16 years at the time of alleged incident. Everything that happened between the victim and the accused was in fact consensual, but the police registered a crime and submitted final report for the reason that the victim was aged below 18 years on the date of the alleged incident. Now everything stands settled and the victim is the happy wife of another person, and they have a child in the present wedlock. She apprehends that if she is exposed to a trial process in the given situation, it will cause problems to her and the family, and such a course may even defile their present happy matrimony.

2. As directed by the court, the petitioners appeared before and explained the circumstances in which they brought this petition to quash the prosecution. On interacting with them in open court, I find that the present application and the report of settlement are in fact in the best interest of the victim who wants to lead a very happy matrimony with her husband and with the child borne in the wedlock. It is affirmed by the victim and her mother, and also the husband of the victim that if the prosecution continues, and if the victim is summoned to court for a trial process, it will definitely cause

embarrassment to them and may even create problems in their matrimony. I am well satisfied that the victim is now leading a very happy matrimony with her husband, who affirmed before me that decision for a settlement was taken in the best interest of the victim and her child. I find that in the above situation, continuance of the prosecution will cause harm and hardship to parties, and it will definitely defile the happy matrimony of the victim. In such a situation, it is appropriate that the prosecution be quashed.

In the result, this petition is allowed. The prosecution in S.C No.326 of 2014 of the Court of Session Palakkad now pending before the Additional Sessions Court, Palakkad and also the further proceedings in C.P. No.33 of 2014 of the Judicial First Class Magistrate Court, Alathur, which is a split up case against the 3rd accused, will stand quashed under Section 482 of the Code of Criminal Procedure.

**Sd/-
P.UBAID
JUDGE**

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/True copy/

P.S to Judge