

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

FRIDAY, THE 17TH DAY OF JULY 2015/26TH ASHADHA, 1937

CrI.MC.No. 4486 of 2015

SC 466/2014 of THE SPECIAL SESSIONS COURT (FOR TRIAL OF OFFENCES
RELATING TO WOMEN & CHILDREN) ERNAKULAM

PETITIONER/ACCUSED

SIBU JAMES AGED 24 YEARS
S/O. JAMES, VETTIKKAL HOUSE, EDAKKUNNAM P.O.
PARATHODE, KANJIRAPPALLY, KOTTAYAM.

BY ADV. SRI.SANJAY THAMPI

RESPONDENT(S)/STATE AND COMPLAINANTS

1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

2. SHIHANA SHERIN, AGED 16 YEARS
MINOR, REP. BY AYMU HAJI, VANNARAPUZHI HOUSE
VAYANGALI BHAGAM, ALANELLOOR VILLAGE, MANNARKKAD TALUK
PALAKKAD DISTRICT.

R2 BY ADV. SRI.R.MANOJ
BY PUBLIC PROSECUTOR SRI. DHANESH MATHEW MANJOORAN

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
17-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 4486 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

A1 - TRUE COPY OF THE FIR IN CRIME NO. 56/2013 OF RAILWAY POLICE
STATION, ERNAKULAM DT. 06.6.13

A2 - TRUE COPY OF THE COMPLAINT OBTAINED FROM THE DEFACTO
COMPLAINANT DATED NIL.

A3 - TRUE COPY OF THE FINAL REPORT.

A4 - TRUE COPY OF THE AFFIDAVIT SWORN BY THE DEFACTO COMPLAINANT
AND HER FATHER DT. 21.6.15.

TRUE COPY

P.S TO JUDGE

RAJA VIJAYARAGHAVAN.V. J

Crl.M.C. 4486 of 2015

Dated 17th July, 2015

ORDER

1. This petition is filed u/s 482 of the Code of Criminal Procedure by the accused in S.C.No.466 of 2014 on the files of the Special Sessions Court (For Trial of Offences Relating to Women and Children), Ernakulam. He is accused of having committed offence punishable u/s 8 of the Protection of Children from Sexual Offences Act, 2012 , 354 (A) (i) of the IPC and S.137 of the Railways Act.

2. The prayer in this petition is to exercise the inherent powers of this Court and to quash the above proceedings on the ground that the matter has been settled between the parties *inter se*.

3. The said crime was registered on the basis of the statement furnished by one Shihana Sherin. Since

Shihana Sherin is a minor aged 16 years, her father Aymoo Haji represents her in this proceedings and is arrayed as the 2nd respondent.

4. The 2nd respondent has filed an affidavit asserting that the 2nd respondent is convinced of the innocence of the accused and that the act of touching the foot of the *de facto* complainant while they were travelling in the sleeper class compartment of a train was an innocent act. They have asserted that the *de facto* complainant or her father are not desirous of prosecuting the case any further. The 2nd respondent is represented by a counsel and he has submitted that the assertions in the affidavit filed by the father for and on behalf of his minor daughter, are true and correct.

5. I am convinced that the offences are entirely personal in nature and, therefore, do not affect public peace or tranquility. It has been held by the Apex Court, that the high court, while exercising powers under S. 482 of the Code will be justified in quashing cases involving

even non-compoundable offences if the disputes are really private in nature and no public interests are involved, provided that the offenses are not of the gravely objectionable nature. I have anxiously gone through the relevant records and also the affidavit filed by the father and guardian for and on behalf of the defacto complainant. I am convinced that the extraordinary powers under S 482 can be invoked as the case falls within the matrix of guidelines laid down by the Apex Court in **Gian Singh v. State of Punjab (2012 (4) KLT 108)** and in **Narinder Singh and others v. State of Punjab (2014) 6 SCC 466** and other cases. It is also felt that quashing of the instant proceedings would bring about peace and secure ends of justice. No purpose will be served in subjecting the parties to the ordeal of a protracted trial in view of the settlement. It will only enure to waste valuable judicial hours. I am therefore of the view that the criminal proceedings pending as against the petitioners can be quashed by invoking the inherent powers of this Court under S 482 of the Code of Criminal Procedure.

6. It appears that the offence u/s 137 of the Railways Act is also incorporated in the final report. The settlement arrived at by the parties cannot be a reason to quash the said proceedings under the Railways Act.

7. In the result, this Crl.M.C is allowed. Annexure-1 FIR and all further proceedings in Crime No.109 of 2015 of Beypore police station, on the files of the Special Sessions Court (For Trial of Offences Relating to Women and Children), Ernakulam in so far as it relates to commission of offense under S 354 (A) (i) of the IPC and u/s 8 of the Protection of Children from Sexual Offences Act, 2012 are quashed. The petitioner shall be liable to face prosecution in terms of law in respect of the offence under S. 137 of the Railways Act.

Crl.M.C is disposed of as above.

Sd/-

RAJA VIJAYARAGHAVAN.V.
Judge

MrCs

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