

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

FRIDAY, THE 13TH DAY OF MARCH 2015/22ND PHALGUNA, 1936

Crl.MC.No. 3807 of 2014

**CP 85/2013 of JUDICIAL FIRST CLASS MAGISTRATE COURT-II, NEYYATTINKARA
CRIME NO. 91/2013 OF POZHIOOR POLICE STATION , THIRUVANANDAPURAM**

PETITIONER(S)/ACCUSED:

**SUBIN, AGED 29 YEARS
S/O.NESAN, PALLIVILAKAM PUTHUVAL VEEDU, MAVILAKKADAVU
VENKADAMBU DESOM, KULATHOOR VILLAGE.**

BY ADV. SRI.S.MOHAMMED AL RAFI

RESPONDENT(S)/COMPLAINANT & STATE:

**1. USHA N.L, AGED 20 YEARS
D/O.LATHA, VARIKKAPLAVILA VEEDU, MAVILAKADAVU, UCHAKKADA
KULATHOOR VILLAGE, NEYYATTINKARA VILLAGE
TRIVANDRUM 695 121.**

**2. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.**

**R1 BY ADV. SRI.AJITH KRISHNAN
R2 BY PUBLIC PROSECUTOR SRI.JIBU P.THOMAS**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 13-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' ANNEXURES

**ANNEXURE-A: TRUE COPY OF THE AGREEMENT DATED 17.2.11 EXECUTED BY THE
PETITIONER AND IST RESPONDENT**

**ANNEXURE-B: TRUE COPY OF THE BIRTH CERTIFICATE OF PETITIONER'S FIRST
CHILD SANJITH SUBIN**

**ANNEXURE-C: CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.91/2013 OF
POZHIYUR POLICE STATION.**

**ANNEXURE-D: TRUE COPY OF THE BIRTH CERTIFICATE OF PETITIONER'S SECOND
CHILD SNEHA SUBIN**

ANNEXURE-E: ATTESTED AFFIDAVIT SWORN BY THE IST RESPONDENT

**ANNEXURE-F: TRUE COPY OF THE MARRIAGE CERTIFICATE DATED 23/2/15 ISSUED
BY THE MARRIAGE OFFICER, KULATHUR, THIRUVANANTHAPURAM**

RESPONDENT(S)' ANNEXURES

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

B.KEMAL PASHA, J.

.....
CRL. M.C. No.3807 of 2014
.....

Dated this the 13th day of March, 2015

ORDER

The accused in Crime No.91/2013 of the Pozhiyoor Police Station, Thiruvananthapuram registered for the offences punishable under Sections 366A and 376 of the Indian Penal Code, which is now pending as C.P.No.85/2013 before the Judicial First Class Magistrate's Court-II, Neyyattinkara has come up under Section 482 Cr.P.C. for getting Annexure-C Final Report in the said crime and the consequent proceedings in C.P.No.85/2013 of the Judicial First Class Magistrate's Court-II, Neyyattinkara, quashed.

2. The allegation against the petitioner is that he had enticed CW1 girl, who was a minor, and took her to a house at Thirupuram Village in Thirupurathur Desom and

committed rape on her at 11 a.m. on 17.02.2011 and repeatedly subjected her to sexual intercourse on several occasions, on a promise of marriage.

3. According to the petitioner, their marriage was lawfully conducted on 23.02.2015 on the girl's attaining the age of majority and thereafter they are residing together as husband and wife. In their relationship two children are also born.

4. CW1 is the first respondent herein. She has entered appearance and filed a detailed affidavit affirming that she has been residing with the petitioner, who is her husband and two children have been born to them in their relationship. She has also prayed for getting Annexure C final report in the matter and the consequent proceedings in the criminal case quashed. The learned counsel for the defacto complainant also endorses the fact that the affidavit has been sworn in by the defacto complainant on her on volition.

5. On hearing the learned counsel for the petitioner, the learned counsel for the 1st respondent and the learned Public Prosecutor, it seems that there is no meaning in proceeding with the matter further as the parties are presently living together as husband and wife. Their marriage was lawfully conducted on 23.02.2015. Matters being so, the proceedings against the petitioner referred to above can be quashed, in the interest of justice.

In the result, this Crl.M.C. is allowed and Annexure-C Final Report in Crime No.91/2013 of the Pozhiyoor Police Station, Thiruvananthapuram and the consequent proceedings in C.P.No.85/2013 of the Judicial First Class Magistrate's Court-II, Neyyattinkara, are hereby quashed.

Sd/- B.KEMAL PASHA, JUDGE

ul/-

[True copy]

P.S. to Judge