

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 28TH DAY OF SEPTEMBER 2015/6TH ASWINA, 1937

CrI.MC.No. 5265 of 2015 ()

**SC 298/2013 of SPECIAL COURT FOR SCHEDULED CASTE/SCHEDULED TRIBE
(PREVENTION OF ATROCITIES) ACT CASES, MANJERI
CRIME NO. 84/2007 OF VAZHAKKAD POLICE STATION , MALAPPURAM DISTRICT
=====**

PETITIONER/2ND ACCUSED:-:

**UPPUNGAN PRADEESH, S/O.SEKHARAN
UPPUNGAN HOUSE, PADINHAREKARA
PURATHUR AMSOM, TIRUR, MALAPPURAM DISTRICT.**

**BY ADVS.SRI.K.M.SATHYANATHA MENON
SRI.A.SANTHOSHKUMAR
SMT.KAVERY S THAMPI**

RESPONDENTS/STATE & COMPLAINANT:-:

- 1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM, KOCHI - 682 031.**
- 2. THE DEPUTY SUPERINTENDENT OF POLICE
MALAPPURAM DISTRICT, PIN - 676 505.**
- 3. LEELA, W/O.KRISHNAN, PATTAYATHIL HOUSE, VAZHOOR EAST
KONDOTTY, MALAPPURAM DISTRICT, PIN - 686 504.**

**R3 BY ADV. SRI.P.SAMSUDIN
R1 & R2 BY PUBLIC PROSECUTOR SHEEBA M.T.**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28-09-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

**ANNEXURE A. CERTIFIED COPY OF THE F.I.R. IN CRIME NO.84/2007 OF VAZHAKKAD
POLICE STATION.**

**ANNEXURE B. CERTIFIED COPY OF THE FINAL REPORT DATED 28.05.2007
SUBMITTED BY THE 2ND RESPONDENT BEFORE THE COURT OF
JUDICIAL FIRST CLASS MAGISTRATE, MALAPPURAM.**

**ANNEXURE C. TRUE COPY OF THE JUDGMENT DATED 24.05.2013 IN S.C.NO.334 OF
2007 OF THE SPECIAL COURT FOR SC/ST(POA) ACT CASES, MANJERI.**

**ANNEXURE D. ORIGINAL OF THE AFFIDAVIT SWEARED BY THE 3RD RESPONDENT
DATED 22.05.2015 BEFORE THE NOTARY PUBLIC.**

RESPONDENTS' EXHIBITS

NIL

TRUE COPY

P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.5265 of 2015

Dated this the 28th day of September, 2015

O R D E R

The petitioner herein is the original 2nd accused in S.C.No.334/2007 of the Special Court for the trial of cases under The Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act cases, Manjeri. The offences involved in the crime are under Sections 448, 354 and 323 IPC and also under Section 3(1)(XI) of The Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act (for short, 'the SC/ST ACT'). The first accused faced trial before the learned Special Judge, and the case against the petitioner was split up and refiled, when he absconded. On full trial, the learned Special Judge found the first accused guilty, on the basis of the evidence given by the victim of offence and other material witnesses. The prosecution examined 12 witnesses in the said case including the victim, and marked Exts.P1 to P9. On conviction, the first accused was sentenced to undergo rigorous imprisonment for one year under Section 448 IPC, rigorous imprisonment for six months under Section

323 IPC, rigorous imprisonment for one year under Section 354 IPC, and to undergo rigorous imprisonment for two years and to pay a fine of Rs.2,000/- under Section 3(1)(XI) of the SC/ST Act, by judgment dated 24.05.2013. The case split up against the petitioner herein is now pending as S.C.No.298/2013 before the learned Special Judge. He now seeks orders quashing the prosecution against him on the ground that there is absolutely nothing against him in the evidence given by the victim in S.C.No.334/2007, that the very substratum of the prosecution as against him stands lost, and that he and the victim have come to terms amicably out of court after the judgment of conviction in S.C.No.334/2007.

2. The victim of offence is the 3rd respondent herein. She has filed affidavit to the effect that she has settled the whole dispute with the 2nd accused (the petitioner herein), and she has no grievance or complaint now. On a perusal of the judgment of the trial court in S.C.No.334/2007, and also the deposition given by the victim of offence in the said case, I find that the victim has not stated anything to incriminate the petitioner herein.

Her statement before the trial court is that when the first accused assaulted her, she was rescued by the other person who came along with the first accused. The said person is none other than the petitioner herein. Thus the definite evidence given by the victim in S.C.No.334/2007 is that she was assaulted only by the first accused, and she affirms that the petitioner herein had not done any act of offence against her. Her evidence shows that she was in fact rescued by the petitioner herein from the hands of the first accused. It is not known how a final report happened to be submitted against the petitioner also, if that is her case. I am well convinced that the prosecution cannot in any manner improve the case, if it goes to trial against the petitioner herein, and that the victim cannot in any manner help the prosecution, or incriminate the petitioner herein. In the absence of any material against the petitioner herein, the prosecution as against him can be quashed, especially when the whole dispute between him and the victim stands settled amicably out of court.

In the result, this petition is allowed. The prosecution as against the petitioner herein in S.C.No.298/2013 before the

Special Court for the trial of cases involving offences against members of the scheduled casts and scheduled tribes, Manjeri, will stand quashed under Section 482 Cr.P.C.

Sd/-

P. UBAID, JUDGE

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