

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 29TH DAY OF SEPTEMBER 2015/7TH ASWINA, 1937

Cr1.MC.No. 5765 of 2015

IN SC 411/2014 OF THE SESSIONS COURT, THALASSERY

CRIME NO. 405/2013 OF MALOOR POLICE STATION, KANNUR

PETITIONER/ACCUSED:

KAKKADANKANDI CHANDRAN, AGED 50 YEARS,
S/O. ANANTHAN, KURUMBOLI AISWARYA HOUSE,
SIVAPURAM AMSOM, MALOOR.

BY ADV. SRI.K.RAJESH KHANNA

RESPONDENTS/DEFACTO COMPLAINANT/COMPLAINANT:

1. MINOR MUHAMMED RAMSHAD P,
REP. BY GUARDIAN MOTHER SAROMMA P.P.,
W/O. AZEEZ.K,
PARAMMAL HOUSE, SIVAPURAM AMSOM, MALOOR DESOM
P.O., THALASSAERY TALUK,
KANNUR DISTRICT - 670 702.

2. STATE OF KERALA
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA
ERNAKULAM.

R1 BY ADV. SRI.V.BINOY RAM

R2 BY PUBLIC PROSECUTOR SMT.SHEEBA M.T

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY
HEARD ON 29-09-2015, THE COURT ON THE SAME DAY PASSED
THE FOLLOWING:

Cr1.MC.No. 5765 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

A1 - COPY OF THE FIR AND FINAL REPORT IN CR. 405/2013 OF
MALOOR POLICE STATION NOW PENDING AS SC 411/2014 BEFORE
THE SESSIONS COURT, THALASSERY.

A2 - COPY OF THE AFFIDAVIT SWORN BY MOTHER OF THE 1ST
RESPONDENT.

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.5765 of 2015

Dated this the 29th day of September, 2015

O R D E R

The petitioner herein is the sole accused in S.C No.411/2014 of the Court of Session, Thalassery. He seeks orders quashing the said prosecution, involving the offence under Section 377 of the Indian Penal Code and also under Section 4 of the Protection of Children from Sexual Offence Act. The police registered the crime on the complaint of a minor boy aged 15 years. The petitioner seeks orders on the ground that he and the mother of victim have come to terms amicably out of court.

2. In so many decisions, the Hon'ble Supreme Court has held that even in cases involving non-compoundable offences, the High Court can quash the prosecution in pending proceedings, if the parties have come to terms amicably out of court, or if continuance of the prosecution will not serve any purpose other than wasting the precious time of the court, provided the case does not involve any public interest or public issue.

3. The first respondent herein is the victim of offence. He is now aged 16 years. His mother has filed affidavit to the effect that the whole dispute stands settled out of court on the intervention of persons acceptable to both sides, and that the settlement is quite voluntary, without the influence or coercion of anybody.

4. The victim and his mother appeared in Court, as directed from the Court, and explained the circumstance of the complaint and the settlement. The guardian of the victim submitted that the settlement was arrived at voluntarily in the best interest of the victim. She apprehends that if the victim is exposed to a trial process it will cause embarrassment to him, and I am satisfied that such a process will affect his studies.

5. On a perusal of the complaint in this case, I find that what is at the most revealed is only the offence of sexual harassment, and not a case of sexual assault as defined under Section 3 of the Protection of Children from Sexual Offence Act. The complaint shows that the accused did something on the body of the complaint. It is not explained what was actually done by the accused. In short, the complaint does not contain the essentials of the offence under Section 377 of the IPC or the

offence defined under Section 3 of the Protection of Children from Sexual Offence Act. However, the given allegations will make out the offence punishable under Section 12 of the Protection of Children from Sexual Offence Act, as a case of sexual harassment as defined under Section 11. In the absence of definite details in the complaint regarding the offences alleged, I do not think that the prosecution can proceed. Anyway, the offence revealed by the complaint comes only under Section 11 of the Protection of Children from Sexual Offence Act and the said offence stands amicably settled out of court. This case does not involve any public interest. The victim and his mother have decided to settle the dispute in the best interest of the victim. I am well satisfied that this is a genuine settlement, and a voluntary settlement. It is definite that nobody will support the prosecution in such a situation if the case goes to trial. The prosecution against the petitioner in S.C No.411/2014 of the Court of Session, (Special Court), Thalassery will stand quashed under Section 482 of the Code of Criminal Procedure.

**P.UBAID
JUDGE**

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