

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SUNIL THOMAS

FRIDAY, THE 18TH DAY OF DECEMBER 2015/27TH AGRAHAYANA, 1937

Crl.MC.No. 6983 of 2015 ()

(AGAINST THE ORDER/JUDGMENT IN LP 74/2011 of J.M.F.C.-IV, KOZHIKODE
AGAINST THE ORDER/JUDGMENT IN Crl.MC 2282/2013 of HIGH COURT OF KERALA
AGAINST THE ORDER/JUDGMENT IN SC 720/2007 of SPECIAL COURT UNDER POCSO
ACT, KOZHIKODE CRIME NO. 18/2003 OF VANITHA POLICE STATION, KOZHIKODE)

PETITIONER(S)/12TH ACCUSED:-:

SHOUKATH, AGED 36 YEARS
S/O.MUHAMMEDKUTTY, RESIDING AT MACHINCHERI HOUSE,
PERUMANA AMSOM, PUTHUR DESOM, KARUKATHANI,
MALAPPURAM DISTRICT.

BY ADVS.SRI.J.R.PREM NAVAZ
SRI.P.T.SHEEJISH

RESPONDENT(S)/COMPLAINANT:-:

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

R BY PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 14-12-
2015, THE COURT ON 18/12/2015 PASSED THE FOLLOWING:

Cr1.MC.No. 6983 of 2015 ()

APPENDIX

PETITIONER(S) ' EXHIBITS

A1. TRUE COPY OF THE FINAL REPORT SUBMITTED BY THE POLICE IN CRIME
NO.18/2013 OF VANITHA POLICE STATION, KOZHIKODE.

A2. TRUE COPY OF THE JUDGMENT DATED 21.02.2012 PASSED BY THE COURT OF
SPECIAL JUDGE FOR THE TRIAL OF OFFENCES AGAINST CHILDREN (SESSIONS
JUDGE) KOZHIKODE IN S.C.NO.720/2007.

A3. TRUE COPY OF THE ORDER IN CRL.M.C.NO.2282/2013 FILED BY THE
PETITIONER AND DISMISSED AS WITHDRAWN DATED 27.08.2013.

A4. TRUE COPY OF THE ORDER IN CRL.M.C.NO.3533 OF 2015 DATED 12.06.2015

RESPONDENT(S) ' EXHIBITS

-----: NIL

/TRUE COPY/ P.S TO JUDGE.

SUNIL THOMAS, J.

Crl.M.C.No.6983 of 2015

Dated this the 18th day of December, 2015

O R D E R

This Crl.M.C. is filed to quash the final report in crime No.18/2003 of Vanitha Police Station, Kozhikode, and all further proceedings against the petitioner. The petitioner is arrayed as 12th accused, for offences punishable under Sections 366(A) & 376 read with Section 34 of the IPC. The allegation was that accused Nos.3 and 15 entrusted the defacto complainant to the petitioner, who committed rape of her at a place. All the remaining accused who faced similar allegation faced trial in S.C.No.720/2007 and were acquitted after having found that they were not guilty of the offences.

2. Contending that the defacto complainant did not support the prosecution case, that she had categorically stated that the accused have not committed any offence against her and further that the complaint was lodged by her at the instance of her uncle, this petition is filed seeking to quash the proceedings on a premise that no purpose will be served by

facing trial. The learned counsel for the petitioner strenuously contended that the defacto complainant had stated that she does not have any acquaintance with the accused against whom the complaint was made.

3. Evidently, the accused did not face the trial. From the materials now available before this Court, it cannot be held at this stage that no purpose will be served by proceeding with trial. Hence, I am of the view that this is not a fit case in which jurisdiction under Section 482 of the Cr.P.C. is liable to be invoked. Hence, the petition is dismissed. However, this is without prejudice to the right of the petitioner to move the court below to seek discharge, if he is so advised.

Sd/-

SUNIL THOMAS
Judge

dpk

/true copy/ P.S. to Judge.

