

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 12TH DAY OF NOVEMBER 2015/21ST KARTHIKA, 1937

Crl.MC.No. 7184 of 2015

SC 370/2014 of ADDL.DC & SESSIONS COURT (VIOLENCE AGAINST WOMEN & CHILDREN)

CRIME NO. 684/2011 OF THOPPUMPADY POLICE STATION, ERNAKULAM

PETITIONER/ACCUSED :-

**ILLIAS P.N., AGED 24 YEARS,
S/O.NOUSHAD, RESIDING AT HOUSE NO.IV/468,
PUTHUVETIL HOUSE, NEAR SUNNI CENTER, CHERLAIKADAVU,
MATTANCHERY VILLAGE, ERNAKULAM DISTRICT.**

**BY ADVS.SRI.T.MADHU
SRI.B.S.SURAJ KRISHNA**

RESPONDENT(S):

- 1. THE STATE OF KERALA,
THROUGH THE STATION HOUSE OFFICER,
THOPPUMPADY POLICE STATION, ERNAKULAM DISTRICT,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. SHAZIA @ SHAZIA BAI E, AGED 22 YEARS,
D/O.IBRAHIM AND W/O.ILLIAS P.N, HOUSE NO. 14/1948,
MOOSA MANZIL, CHULLIKKAL KARA, THOPPUMPADY VILLAGE,
ERNAKULAM DISTRICT, NOW RESIDING AT HOUSE NO. 4/468,
PUTHUVETIL HOUSE, CHERLAI KADAVU, KOCHI 2.**

**R2 BY ADV. SMT.G.SANGEETHA
R1 BY SRI.JUSTIN JACOB, PUBLIC PROSECUTOR**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 12-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' ANNEXURES :-

ANNEXURE A1 :- THE TRUE CERTIFIED COPY OF THE FIR IN CRIME NO.684/2011 OF THOPPUMPADY POLICE STATION, ERNAKULAM DISTRICT.

ANNEXURE A2 :- THE TRUE CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.684/2011 OF THOPPUMPADY POLICE STATION, ERNAKULAM DISTRICT.

ANNEXURE A3 :- THE TRUE COPY OF THE MARRIAGE CERTIFICATE DATED 7.10.2013 ISSUED BY THE MARRIAGE OFFICER, KOCHI.

ANNEXURE A4 :- THE TRUE MARRIAGE PHOTOGRAPHS OF THE PETITIONER AND THE 2ND RESPONDENT.

ANNEXURE A5 :- THE AFFIDAVIT DATED 4.11.2015 SWORN IN BY THE 2ND RESPONDENT.

RESPONDENT(S)' ANNEXURES :- NIL

//TRUE COPY//

P.A. TO JUDGE

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P.UBAID, J.

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Crl.M.C.No.7184 of 2015
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Dated this the 12th day of November, 2015

ORDER

The petitioner herein is the sole accused in S.C.No.370 of 2014 of the Additional Session's Court (Atrocities and Sexual Violence against Women and Children), Ernakulam. The said case involves the offence under Section 376 IPC. The petitioner seeks orders quashing the said prosecution on the ground that he and the victim have come to terms amicably out of Court, and that in terms of the settlement, he has married the victim under the Special Marriage Act.

2. In so many decisions, the Honourable 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, and continuance of further proceedings will not serve any purpose. The petitioner has

produced copy of the marriage certificate under the Special Marriage Act, and also some photographs showing the factum of marriage. The victim of offence is the second respondent herein. She has filed affidavit to the effect that the whole dispute now stands settled amicably, and that the petitioner has married her in terms of the settlement. I am well satisfied that the petitioner and the victim had been in love for some time, and that everything that transpired between them was in fact consensual. It appears that a complaint alleging rape happened to be made, when the relatives objected the relationship. Anyway, the whole dispute now stands settled, and the victim is now the wife of the petitioner. It is definite, that if the prosecution continues, it will cause problems in matrimony, and it will even defile the present happy matrimony. It is submitted that after getting the marriage registered under the Special Marriage Act, the parties also underwent some ceremony of marriage. I am well satisfied that the petitioner and the victim are now very happy in matrimony, and in such a situation, it is appropriate that the present prosecution be quashed.

In the result, this petition is allowed. The prosecution against the petitioner in S.C.No.370 of 2014 of the Additional Session's Court (Atrocities and Sexual Violence against Women and Children), Ernakulam will stand quashed under Section 482 Cr.P.C.

Sd/-
P.UBAID
JUDGE

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//TRUE COPY//

P.A. TO JUDGE