

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 1ST DAY OF DECEMBER 2015/10TH AGRAHAYANA, 1937

Crl.MC.No. 7534 of 2015

SC 549/2015 OF FIRST ADDITIONAL SESSIONS JUDGE, PALAKKAD

CRIME NO. 500/2014 OF KONGODE POLICE STATION, PALAKKAD

PETITIONER/ACCUSED :-

**VINEESH, AGED 25 YEARS,
S/O.VIJAYAN, KORANGIYIL HOUSE,
PALODE POST, THACHANATTUKARA,
MANARKKAD, PALAKKAD DISTRICT.**

BY ADV. SMT.M.A.SHEEBA

RESPONDENT(S)/DEFACTO COMPLAINANT, VICTIM & STATE :-

- 1. SINDU, AGED 45 YEARS, W/O.SIVADASAN,
KAPPUKAD HOUSE, KANHIKULAM P.O.,
PALAKKAD DISTRICT, PIN - 678 596.**
- 2. HARITHA, AGED 18 YEARS, KAPPUKAD HOUSE,
KANHIKULAM P.O., PALAKKAD DISTRICT, PIN - 678 596.**
- 3. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.**

**R1 & R2 BY ADV. SRI.V.C.SARATH
R3 BY SRI.JUSTIN JACOB, PUBLIC PROSECUTOR**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 01-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' ANNEXURES :-

ANNEXURE A : TRUE COPY OF THE FINAL REPORT IN CRIME NO.500/2015 OF KONGODE POLICE STATION, PALAKKAD DISTRICT.

ANNEXURE B : TRUE COPY OF THE CERTIFICATE OF MARRIAGE BETWEEN THE PETITIONER AND THE 2ND RESPONDENT VICTIM.

ANNEXURE C : AFFIDAVIT SWORN BY THE FIRST RESPONDENT/DEFACTO COMPLAINANT SIGNIFYING THE FACTUM OF THE SETTLEMENT OF THE DISPUTE BETWEEN THE PARTIES.

ANNEXURE D : AFFIDAVIT SWORN BY THE SECOND RESPONDENT/VICTIM OF THE DEFACTO COMPLAINANT SIGNIFYING THE FACTUM OF THE SETTLEMENT OF THE DISPUTE BETWEEN THE PARTIES.

RESPONDENT(S)' ANNEXURES :- NIL

//TRUE COPY//

P.A. TO JUDGE

P.UBAID, J.

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Crl.M.C.No.7534 of 2015
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Dated this the 1st day of December, 2015

ORDER

A prosecution involving the offence under Section 376(1) (n)IPC, and Section 4 of Protection of Children from Sexual Offences Act is sought to be quashed under Section 482 Cr.P.C. on the ground of amicable settlement out of court. The petitioner herein is the sole accused in the said prosecution now pending before the learned First Additional Sessions Judge, Palakkad as S.C.No.549 of 2015. The first respondent herein is the defacto complainant who made complaint alleging rape, and the second respondent herein is the victim of offence. The first respondent happened to make a complaint, when she saw her daughter and the petitioner herein in suspicious circumstance. On the belief that her daughter was being exploited by the petitioner, she made a

complaint without knowing of the fact that her daughter and the petitioner had been in intense love for months. Anyway a crime was registered, and after investigation the police submitted final report in Court. The petitioner has now married the victim of offence in accordance with the customary rites and ceremonies, and the marriage stands registered under the law. In such a circumstance, the prosecution is sought to be quashed. The respondents 1 and 2 have filed affidavit to the effect that the whole dispute stands settled amicably out of Court, and everything stands resolved. The victim of offence was a minor at the time of the alleged incident.

2. On a perusal of the materials, I find that whatever happened between the petitioner and the victim was in fact consensual, but a case of statutory rape was registered on the ground that the girl was a minor at the time of the alleged incident. Now, she is aged 18 years, and she is very happy in matrimony with the petitioner. Annexure-B is the marriage certificate which bears the photographs of the parties, and which shows registration of the marriage under the law. I am well satisfied that the parties have come to terms amicably

out of court in the best interest of the victim, and that the whole issue stands resolved forever. Now, nobody can have complaint or grievance because, the victim is very happy with the petitioner in matrimony, in continuation of their love affair for months which the mother did not realise when she made complaint. Definite it is, that the prosecution, if allowed to continue, will defile the present happy matrimony of the petitioner and the victim. Appropriate it is, that the pending prosecution be quashed in the best interest of the couple.

In the result, this petition is allowed. The prosecution against the petitioner in S.C.549 of 2015 before the learned First Additional Sessions Judge, Palakkad will stand quashed under Section 482 Cr.P.C.

Sd/-
P.UBAID
JUDGE

rkj

//TRUE COPY//

P.A. TO JUDGE