

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 3RD DAY OF FEBRUARY 2015/14TH MAGHA, 1936`

Crl.MC.No. 6593 of 2014

**CP 67/2007 of ADDL.CHIEF JUDICIAL MAGISTRATE COURT, TRIVANDRUM
CRIME NO.265/2005 OF PETTAH POLICE STATION, TRIVANDRUM**

PETITIONER(S):

**ARUN C.V, AGED 33 YEARS
S/O VIJAYAKUMAR, RESIDING AT SOORAJ NIVAS, D-95
FOREST OFFICE LANE, VAZHUTHACADU
TRIVANDRUM. (PRESENT ADDRESS).**

**BY ADVS.SRI.J.R.PREM NAVAZ
SRI.RAHUL VENUGOPAL
SRI.P.T.SHEEJISH**

RESPONDENT(S):

**STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.**

BY PUBLIC PROSECUTOR SMT.JIBU P.THOMAS

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 03-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

Crl.MC.No. 6593 of 2014

APPENDIX

PETITIONER(S)' ANNEXURES

ANNEXURE A: A TRUE COPY OF THE CHARGE SHEET IN CRIME NO.265/2005

ANNEXURE B: COPY OF THE JUDGMENT IN S.C.NO.2217/08 (CP.67/07 OF ADDL.CJM COURT, THIRUVANANTHAPURAM.

RESPONDENT(S)' ANNEXURES

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

B.KEMAL PASHA, J.

.....
CRL. M.C. No.6593 of 2014
.....

Dated this the 3rd day of February, 2015

ORDER

The 2nd accused in Crime No.265/2005 of the Pettah Police Station, Thiruvananthapuram which is presently pending as S.C.No.1848/2013 before the Principal Sessions Court, Thiruvananthapuram for the offences punishable under Sections 366A and 376 read with Section 34 of the Indian Penal Code, is the petitioner herein. The first accused in the case was acquitted by the Principal Assistant Sessions Court, Thiruvananthapuram through judgment dated 30.09.2010 in Sessions Case No.2217/2008. The victim in the case had not supported the prosecution case and that was the reason why the first accused was acquitted.

2. The allegations against the first accused is that he had enticed a 16 year old girl, who is the daughter of the defacto complainant, and kidnapped her from her lawful guardianship, took her to Coimbatore and Ootty, where she was subjected to illicit sexual intercourse at various hotels. The only allegation against the petitioner is that while the first accused along with the girl was staying in a hotel at Ootty, he had requested for financial assistance from the petitioner over the phone, and the petitioner had sent an amount of Rs.3,000/- to the account of another person who was residing in the neighbouring room wherein the first accused along with the victim girl had stayed and from that account by using the ATM card of the occupier of the neighbouring room, the said amount was withdrawn by the first accused. Apart from the said allegation that he had provided financial assistance to the first accused, there is no allegation that he had in any other manner assisted the first accused in committing out the offence.

3. Heard learned counsel for the petitioner and the learned Public Prosecutor.

4. Perused the judgment passed by the Principal Assistant Sessions Judge in S.C.2217/2008 whereby the first accused was acquitted. In fact, no offence can be made out against the petitioner herein based on the allegations against him. The only allegation is that he had provided financial assistance to the first accused when he had requested for money. Apart from that, there is no other allegation that he had assisted the first accused in any other manner in taking away the girl or in committing the offence of rape. Especially when the first accused was acquitted as the victim girl had not supported the prosecution case, there is no chance at all for a conviction of the petitioner for the offence alleged against him at present in S.C.1848/2013 of the Sessions Court, Thiruvananthapuram. Matters being so, the proceedings against the petitioner in the said case are liable to be quashed.

In the result, this Crl.M.C. is allowed and Annexure-A charge sheet and all further proceedings pursuant to Crime No.265/2005 of the Pettah Police Station, Thiruvananthapuram, presently pending as S.C.No.1848/2013 before the Principal Sessions Court, Thiruvananthapuram, are hereby quashed.

Sd/- B.KEMAL PASHA, JUDGE

ul/-

[True copy]

P.S. to Judge