

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 3RD DAY OF SEPTEMBER 2015/12TH BHADRA, 1937

Crl.MC.No. 7270 of 2014 ()

SC 527/2014 of SESSIONS COURT, ERNAKULAM

PETITIONERS/ACCUSED NOS 1 AND 3:

- 1. PRADEEP KUMAR K.K., AGED 34 YEARS
S/O KUMARAN, KERA 50, NEAR REGENT TILES
ST.ROTA'S ROAD, PONNURUNNY, VYTTILA .O.
COCHIN-682019.**
- 2. SAJEEV KUMAR, AGED 47 YEARS
S/O SADANANDAN, KERA 50, NEAR REGENT TILES
ST.ROTA'S ROAD, PONNURUNNY, VYTTILA P.O.
COCHIN-682019.**
- 3. SREEDEVI, AGED 38 YEARS
W/O SAJEEV KUMAR, KERA 50, NEAR REGENT TILES
ROTA'S ROAD, PONNURUNNY, VYTTILA P.O.
COCHIN-682019.**

BY ADV. SRI.B.RAMACHANDRAN

RESPONDENTS/STATE AND DEFACTO COMPLAINANT:

- 1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA
ERNAKULAM-682031. (REPRESENTING THE CIRCLE INSPECTOR OF POLICE
ERNAKULAM TOWN NORTH, ERNAKULAM, ERNAKULAM DISTRICT).**
 - 2. JYOTHI S.H., W/O PRADEEP KUMAR
RANI BENOOR HOUSE, ASHOKAPURAM KARA
THAIKAVU, ALUVA, ERNAKULAM-683101.**
- R2 BY ADV. SRI.P.ANTO THOMAS
R2 BY ADV. SRI.S.RUSSEL
R1 BY PUBLIC PROSECUTOR SMT. SHEEBA M.T.**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 03-09-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONERS' EXHIBITS

- ANNEXURE A1:** TRUE COPY OF THE ORDER DATED 4.7.2012 OF THIS HONOURABLE COURT IN WP(CRL) NO.314 OF 2012.
- ANNEXURE A2:** TRUE COPY OF THE ORDER DATED 20.3.2013 OF THIS HONOURABLE COURT IN B.A.NO.9576 OF 2012.
- ANNEXURE A3:** CERTIFIED COPY OF THE CHARGE SHEET IN CP NO.2 OF 2014 OF THE COURT OF THE JUDICIAL MAGISTRATE OF THE FIRST CLASS-I, ERNAKULAM.
- ANNEXURE A4:** TRUE COPY OF THE TERMS OF COMPROMISE ENTERED BETWEEN THE PETITIONERS AND THE 2ND RESPONDENT.
- ANNEXURE A5:** TRUE COPY OF THE AFFIDAVIT FILED BY THE 2ND RESPONDENT.

RESPONDENTS' EXHIBITS

NIL

TRUE COPY

P.A. TO JUDGE

P. UBAID, J.

Crl.M.C. No.7270 of 2014

Dated this the 3rd day of September, 2015

O R D E R

A prosecution under Section 376 IPC read with Section 109 IPC initiated on the complaint of the 2nd respondent herein is sought to be quashed under Section 482 Cr.P.C. on the ground of amicable settlement, and also the marriage between the accused and the victim. The 1st petitioner herein is the husband of the victim and the other petitioners are his relatives. The prosecution case is that on 07.08.2012 the 2nd petitioner herein committed rape on the victim with the help and assistance of the other petitioners. Thus the prosecution would allege the offence under Section 376 IPC against the 2nd petitioner, and the offence under Section 376 read with Section 109 IPC against the petitioners 1 and 3. They now seek orders quashing the prosecution pending as S.C.No.527/2014 in the Court of Session, Ernakulam on the ground that the whole dispute now stands resolved forever, and that the 1st petitioner has married the

victim. The 2nd respondent, the victim, has filed affidavit to the effect that the whole dispute now stands settled and that complaint in fact happened to be made by her on some misapprehension. The parties have also produced copy of the marriage certificate which shows that the 2nd respondent herein was married by the 1st petitioner on 19.02.2012. The alleged incident was on 07.08.2012. It is really unbelievable that a stranger could commit rape on the victim in the presence of her own husband. Thus the complaint, and the whole prosecution, is really doubtful. Any way, the matter stands settled amicably, and the whole dispute stands resolved. Annexure A4 copy of the agreement and Annexure A5 affidavit by the victim will show that the victim and the 1st petitioner are now leading a very happy life as man and wife. In such a situation, continuance of the prosecution may cause embarrassment to all the parties, and it may even defile their happy matrimony. It is appropriate that the prosecution be quashed.

In the result, this petition is allowed. The prosecution against the petitioners herein in 527/2014 of the Court of Session, Ernakulam will stand quashed under Section 482 of the

Code of Criminal Procedure. Accordingly, the petitioners will stand released from prosecution, and the bail bond, if any, executed by them will stand discharged.

Sd/-

P. UBAID, JUDGE

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