IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

TUESDAY, THE 29TH DAY OF DECEMBER 2020 / 8TH POUSHA, 1942

Crl.MC.No.5644 OF 2020(E)

AGAINST THE CRIME NO.342/2019 OF MUNAMBAM POLICE STATION, ERNAKULAM IN S.C NO. 698/2019 OF ADDITIONAL DISTRICT & SESSIONS (POCSO)COURT, ERNAKULAM

PETITIONER/ACCUSED:

XXX
XXXXX

BY ADV. SRI.T.M.SUDHEER

RESPONDENTS/STATE & COMPLAINANT:

1 **STATE OF KERALA**
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.

2 **X**
XXXXX

R2 BY ADV. DEEPAK RAJ

R1 BY SMT SREEJA V - PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 29.12.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

Dated this the 29th day of December 2020

The petitioner is the accused in SC.No.698/2019 before the Additional District and Sessions (POCSO) Court, Ernakulam. The accused is alleged to have committed offences under Section 376(2) of Indian Penal Code read with Section 6 and 5J(ii) of the POCSO Act, 2012.

2. It is submitted by the learned counsel for the petitioner that petitioner and the 2nd respondent - the victim, were in love with each other and in their relationship, a child was even born. Photograph of the child along with the petitioner and the 2nd respondent is produced as Ann: A6. It is also pleaded that the crime No.342/2019 was registered on the basis of some misunderstanding and that, subsequent to the birth of the child, petitioner as well as the 2nd respondent have married each other. True copy of the marriage certificate issued by the marriage officer, Njarackal is produced as Ann: A4 and the birth certificate of the child is produced as Ann: A5.

3. The prosecution alleges that on 26.1.2019, at 11.00 a.m, the petitioner committed rape on the victim and the victim became pregnant. The crime was registered on the basis of a

complaint by the victim.

4. According to the petitioner, the victim and the petitioner were involved in a romantic relationship and have even married. The complaint was filed on a total misunderstanding and no proper investigation was also carried out. It is contended that continuance of the proceedings is a sheer abuse of the process of Court and no purpose will be served other than waste of judicial time.

5. Petitioner is only aged 25 years and taking into consideration the gravity of the offences alleged as well as the subsequent developments, especially the marriage between the petitioner and the 2nd respondent and the settlement arrived at there is no purpose in continuing the case.

6. The settlement is reflected through Ann: A3 affidavit, wherein the victim as well as her parents have sworn to an affidavit, stating that they have no complaints or allegations against the petitioner and they have come into to good terms with each other and also that no purpose would be served in continuing the criminal proceedings.

7. The learned Public Prosecutor on instructions, submits that the Police have taken the statement of the victim and

have verified the veracity of the affidavit produced before this Court as Ann: A3. According to the learned prosecutor, the affidavit is genuine and can be acted upon.

8. In view of the above circumstances, continuance of the proceedings in SC No.698/2019 before the Sessions Court, Ernakulam will only be an abuse of the process of Court. Since the matter has been settled by the parties and the petitioner has admittedly married the alleged victim, no evidence will be forthcoming to support the prosecution case. Continuance of the prosecution is therefore an abuse of process of Court and serves no purpose.

In the result, the Crl.MC is allowed. Proceedings in SC.No.698/2019 on the files of the Additional District and Sessions (POCSO) Court, Ernakulam initiated as per Annexure A2 is quashed.

Sd/-

BECHU KURIAN THOMAS

JUDGE

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APPENDIX

PETITIONER'S/S EXHIBITS:

ANNEXURE-A1	**CERTIFIED COPY OF THE FIR DATED 11.04.2019 IN CRIME NO.342/2019 OF MUNAMBAM POLICE STATION, ERNAKULAM DISTRICT.**
ANNEXURE-A2	**CERTIFIED COPY OF THE FINAL REPORT DATED 14.06.2019 IN CRIME NO.342/2019 OF MUNAMBAM POLICE STATION, ERNAKULAM DISTRICT.**
ANNEXURE-A3	**THE ORIGINAL AFFIDAVIT FILED BY THE 2ND RESPONDENT DATED 14.10.2020.**
ANNEXURE-A4	**MARRIAGE CERTIFICATE ISSUED BY THE MARRIAGE OFFICER NJARACKAL DATED 12.10.2020.**
ANNEXURE-A5	**BIRTH CERTIFICATE OF THE CHILD ISSUED BY THE DEPARTMENT OF URBAN AFFAIRS DATED 17.10.2020.**
ANNEXURE-A6	**A TRUE COPY OF THE PHOTOGRAPHS OF THE CHILD.**

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//TRUE COPY// **PA TO JUDGE**