IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C. JAYACHANDRAN

WEDNESDAY, THE 2ND DAY OF APRIL 2025 / 12TH CHAITHRA, 1947

CRL.MC NO. 5356 OF 2024

CRIME NO.0567/2024 OF KALAMASSERY POLICE STATION, ERNAKULAM

PETITIONER/ACCUSED:

1 MUHAMMED MIRAS
AGED 29 YEARS
S/O MUTHUKOYA, A P (H), PUTHIYANGADI,
BEACH ROAD, MADAYI P.O,
KANNUR DISTRICT, PIN - 670304

BY ADVS.
B.MUHAMMED SHAHEEL
R.N.SANDEEP
KEERTHI VIJAYAN
JYOTHI R. NAIR

RESPONDENTS/STATE AND DEFACTO COMPLAINANT :

1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN - 682031

2 XXXXXXXXXX
XXXXXXXXXX XXXXXXXXXX

BY ADVS.
SRI. E.C. BINEESH, PUBLIC PROSECUTOR
RANGEETH G.S.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ORDERS ON 02.04.2025, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C. JAYACHANDRAN, J.

Crl.M.C.No.5356 of 2024

Dated, this the 02nd day of April, 2025

ORDER

The petitioner herein is the sole accused in Crime no.618/2024 of Vengara Police Station, Malappuram. Initially, the case was registered as Crime no.567/2024 before the Kalamassery Police Station, Ernakulam. Subsequently, it was transferred to Vengara Police Station and registered as Crime no.618/2024. The offences alleged are under Sections 354, 354A(1)(i), 376(2)(n) and 506 of the Penal Code. What is sought to be quashed is the latest crime at Vengara Police Station, Malappuram.

2. The prosecution would allege that, with the intention to sexually exploit the defacto complainant after their engagement, the accused wanted her to come to a lodge at Malappuram on 03.05.2024 and committed rape on her repeatedly on 04.05.2024. Thereafter, the accused/petitioner withdrew from the marriage, besides

threatening the defacto complainant and interdicting her from disclosing the incident to anybody, thus, committing the offences enumerated above.

3. It is the specific case of the defacto complainant in the F.I.S. that she was called to the hotel for the purpose of discussing about the marriage and that the petitioner had offered to marry her, despite the protest of his parents. However, as regards the rape, the case espoused is that, she was subjected to forcible sexual intercourse, in utter disregard of her protest.

4. Heard the learned Counsel for the petitioner and the learned Public Prosecutor.

5. This Court notice that the petitioner is seeking quashment on the strength of a settlement arrived at by and between the petitioner and the defacto complainant. An affidavit has been sworn to by the defacto complainant, wherein she would unequivocally vouch that the matter has been settled amicably and that, the petitioner and the defacto complainant have decided to marry on 28.06.2024.

The defacto complainant would also state that she is not interested to prosecute the matter, anymore. When this Crl.M.C. was moved, this Court directed the learned Public Prosecutor to get the statement of the defacto complainant recorded through the Investigating Officer. The same is also available before this Court, wherein also, the defacto complainant would re-iterate the factum of settlement, as also, her disinterestedness to prosecute the matter any more.

6. Subsequently, during the course of proceedings before this Court, the marriage took place on 12.07.2024 and the certificate of marriage issued by the Marriage Officer, Edapally, has been produced. Learned Counsel for the petitioner submits that pursuant to the marriage, the petitioner and the defacto complainant are leading a happy and harmonious life, as husband and wife. It is the submission of the learned Counsel that further prosecution is neither going to fetch any result in favour of the prosecution, nor of any good to the defacto complainant. Learned Counsel would submit that the binding precedents on

alleged rape, pursuant to a promise to marry, will enure to the benefit of the petitioner, inasmuch as the petitioner had no intention, whatsoever, to extract the consent of the defacto complainant by extending a false promise to marry, which was never intended to be acted upon. This Court takes into account the judgments of the Hon'ble Supreme Court in **Pramod Suryabhan Pawar** v. ***The State of Maharashtra and another*** [2019 9 SCC 608], **Dr.Dhruvaram Mulidhar Sonar** v. ***State of Maharashtra and others*** [AIR 2019 SC 327] and ***Shivshankar @ Shiva*** v. ***State of Karnataka and another*** [(2019) 18 SCC 204]. The dictum laid down in the above authoritative pronouncements by the Hon'ble Supreme Court would embolden this Court to allow the instant Crl.M.C. by quashing the crime, the final report and also further proceedings against the petitioner.

7. As rightly pointed out by the learned Counsel for the petitioner, there was no false promise of marriage extended by the petitioner to the defacto complainant, with an eye fixed on extracting her consent for the purpose of satisfying petitioner’s lust. There was genuine relationship between the petitioner and the defacto

complainant. The relationship was made known to the parents. There were discussions and deliberations between them and the engagement was conducted. It is thereafter that the parents of the petitioner – importantly, not the petitioner - contacted the parents of the defacto complainant, informing that the petitioner is withdrawing from the marriage. Even after leaving the Country, the petitioner was in continuous contact with the defacto complainant and he keeps on reassuring that he will marry her, despite and dehors the objection and protest of his parents. Going by the F.I.S., even on the date of the alleged incident where the defacto complainant was invited to the hotel, the petitioner re-iterated that he will marry the defacto complainant, which is a call he has to take; and not his parents. It may be true that there was physical relationship pursuant to that, on that day. However, the same will fall short of the legal requirements of the offence constituting rape in terms of Section 375 of the Penal Code.

8. More importantly, the petitioner and defacto complainant had thereafter, got married as evidenced from

the marriage certificate. They are presently living together as husband and wife, happily. Affidavit sworn to by the defacto complainant would vouch that the defacto complainant has no grievance, whatsoever, against the petitioner now and that the issues have been settled amicably.

9. In the light of the above referred facts, this Court is of the opinion that the necessary parameters, as culled out in ***Narinder Singh and Others v. State of Punjab*** [(2014) 6 SCC 466], ***Madan Mohan Abbot v. State of Punjab*** [(2008) 4 SCC 582] and ***Gian Singh v. State of Punjab and another*** [(2012) 10 SCC 303], are fully satisfied. This Court is convinced that further proceedings against the petitioner will be a futile exercise, inasmuch as the disputes have already been settled. There is little possibility of any conviction in the crime. *Dehors* the settlement arrived at by and between the parties, if they are compelled to face the criminal proceedings, the same, in the estimation of this Court, will amount to abuse of process of Court. The quashment sought for would secure the ends of justice.

In the circumstances, this Crl.M.C. succeeds and F.I.R. in Crime No.618/2024 of Vengara Police Station, Malappuram and all further proceedings pursuant thereto, will stand quashed.

Sd/-

C. JAYACHANDRAN

JUDGE

SKP/02-04

APPENDIX OF CRL MC 5356/2024

PETITIONER'S ANNEXURES:

SEALED COVER 1	**THE TRUE COPY OF THE FIR IN CRIME NO.567/2024 OF KALAMASSERY POLICE STATION PENDING BEFORE JUDICIAL FIRST CLASS MAGISTRATE COURT, KALAMASSERY**
SEALED COVER 2	**THE AFFIDAVIT SWORN BY THE RESPONDENT NO.2 DATED 18.06.2024 EXPRESSING HER WILLINGNESS TO QUASH THE CRIMINAL PROCEEDINGS AGAINST THE PETITIONER**
ANNEXURE A3	**TRUE COPY OF THE MARRIAGE CERTIFICATE OF THE PETITIONER AND RESPONDENT NO.2 DATED 12.07.2024**

RESPONDENTS' ANNEXURES: NIL

TRUE COPY

P.A. TO JUDGE