

Veerankutty Vs. State of Kerala

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Court : Kerala

Decided On : Nov-28-2013

Judge : Honourable Mr.Justice P.Bhavadasan

Appellant : Veerankutty

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.BHAVADASAN THURSDAY, THE 28TH DAY OF NOVEMBER 2013 7TH AGRAHAYANA, 1935 CrI.MC.No. 3300 of 2013 ----- AGAINST THE

ORDER

IN Bail Appl. 4878/2013 DATED 15/07/2013 ... SC NO.244/2013 OF SESSIONS COURT, MANJERI CRIME NO. 1009/2012 OF KONDOTTY POLICE STATION , MALAPPURAM PETITIONER(S)/ACCUSED: ----- VEERANKUTTY, AGED 46 YEARS, S/O.ASSAINAR, CHOYAKKODE HOUSE, CHEEKODE.P.O., MALAPPURAM DISTRICT. BY ADVS.SRI.S.RAJEEV SRI.K.K.DHEERENDRA KRISHNAN RESPONDENT(S)/COMPLAINANT & STATE: ----- 1. STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM-682 031 (CRIME NO.1009/2012 OF KONDOTTY POLICE STATION, MALAPPURAM DISTRICT).

2. MARIYUMMA, W/O.VEERANKUTTY, CHOYAKKODE HOUSE, CHEEKODE.P.O., MALAPPURAM DISTRICT-676 512. R1 BY PUBLIC PROSECUTOR SMT. P.MAYA R2 BY ADV. SRI.P.SAMSUDIN THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28-11-2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Kss CrI.MC.No. 3300 of 2013

----- APPENDIX PETITIONER(S)' ANNEXURES:
----- ANNEXURE-I CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.1009/2012 OF KONDOTTY POLICE STATION. ANNEXURE-II AFFIDAVIT SWORN BY THE SECOND RESPONDENT DATED 29-06-2013. ANNEXURE-III COPY OF

ORDER

DATED 15-07-2013 BY THIS HON'BLE COURT IN BA.4878/2013. RESPONDENT(S)' ANNEXURES: ----- N I L /TRUE COPY/ P.A.TO JUDGE Kss P.BHAVADASAN, J.

----- CrI.M.C. No.3300
OF 2013----- Dated this the 28th day of November, 2013.

ORDER

This CrI.M.C is filed under Section 482 of the Code of Criminal Procedure seeking to have all further proceedings in S.C.No.244/2013 on the file of the Sessions Court, Manjeri quashed.

2. The petitioner, who is the father of the victim, stands accused of having committed the offences punishable under Sections 313 and 376 of Indian Penal Code, Section 23 of the Juvenile Justice Act, Section 5(j)(ii)(l)(n) and Section 6 of Protection of Children from Sexual Offences Act, 2012. The allegation against the petitioner is that he had raped his own daughter and she had conceived as a result of the same.

3. It is unnecessary to go into further details for the simple reason that it is now brought to the notice of this Court that the parties have settled the matter out of court. On finding that the de facto complainant has given a statement to the Police

about CrI.M.C No.3300/2013 2 her stand that she had no complaint against the petitioner, this Court directed the learned Sessions Judge, Manjeri to conduct an enquiry into the matter, as per the order dated 04.09.2013. In pursuance to the said order, a report has been filed on 10.09.2013. Though the learned Sessions Judge says that there is no settlement, it is interesting to note that in the report what is stated is that there is no settlement because there was no such incident at all. To be more precise, the conclusion of the report reads as follows: "According to the de facto complainant and her mother, the incident alleged in the case did not take place and so there was no occasion for any settlement of the matter in the case. The enquiry conducted by me reveals that the matter in S.C.No.244/2013 has not been settled between the de facto complainant and the accused, and that the settlement claimed by the petitioner (accused) in CrI.M.C.3300/2013 is not true". The report fortifies the statement given by the girl to the Police.

4. Considering the totality of the circumstances especially the life of the girl involved and also the family life of the petitioner as well as other members, it is felt that continuance of CrI.M.C No.3300/2013 3 the proceedings will not be in the interest of anyone. Therefore, this CrI.M.C is allowed and all further proceedings in S.C.No.244/2013 on the file of the Sessions Court, Manjeri shall stand quashed and the petitioner shall stand discharged. P.BHAVADASAN JUDGE smp

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