

Valsala Vs. State of Kerala

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Court : Kerala

Decided On : Apr-04-2014

Judge : Honourable Mr.Justice K.Vinod Chandran

Appellant : Valsala

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE N.K.BALAKRISHNAN FRIDAY, THE 4TH DAY OF APRIL 2014 14TH CHAITHRA, 1936 CrI.MC.No. 1989 of 2014 -----

CP NO. 147/2013 OF JUDICIAL FIRST CLASS MAGISTRATE COURT I, HARIPPAD CRIME NO. 34/2013 OF KANAKAKUNNU POLICE STATION , ALAPPUZHA PETITIONER(S)/2ND ACCUSED:

----- VALSALA, AGED 49 YEARS, W/O.VIJAYAN NAIR, V V NIVAS, THACHOORKUNNU, AVANAVANCHERY P O, ATTINGAL, THIRUVANANTHAPURAM. BY ADV. SRI.LATHEESH SEBASTIAN RESPONDENT(S)/COMPLAINANT/STATE:

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

2. THE CIRCLE INSPECTOR OF POLICE, KAYAMKULAM, ALAPPUZHA DISTRICT - 680 001.

3. ATHIRA ANAND, AGED 20 YEARS, D/O.REMA, KARUKASSERIL HOUSE, PUTHIYAVILA, KANDALLUR, KAYAMKULAM, ALAPPUZHA DISTRICT -690 502. R1 & R2 BY PUBLIC PROSECUTOR SRI.DHANESH MATHEW MANJOORAN THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 04-04-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Kss CrI.MC.No. 1989 of 2014 ----- APPENDIX PETITIONER(S)'ANNEXURES: ----- ANNEX.A1:- TRUE COPY OF THE F I R IN CRIME NO 34/2013 OF KANAKAKKUNNU POLICE STATION. ANNEX.A2:-TRUE COPY OF THE 161 STATEMENT OF THE 3D RESPONDENT DTD 24/1/2013. ANNEX.A3:-TRUE COPY OF THE REPORT OF THE KANAKAKKUNNU POLICE DTD 24/1/2013. ANNEX.A4:-TRUE COPY OF THE

ORDER

OF JFMC I, HARIPPAD DTD 24/1/2013. ANNEX.A5:-TRUE COPY OF THE STATEMENT OF THE 3D RESPONDENT BEFORE JFMC I , HARIPPAD DTD 28/1/2013. ANNEX.A6:-TRUE COPY OF THE STATEMENT OF THE 3D RESPONDENT DTD 6/2/2013. ANNEX.A7:-TRUE COPY OF THE STATEMENT OF THE 3D RESPONDENT DTD 17/2/2013. ANNEX.A8:-TRUE COPY OF THE STATEMENT OF THE 3D RESPONDENT DTD 12/11/2013. ANNEX.A9:-TRUE COPY OF THE STATEMENT OF THE CW 7 DTD 12/2/2013. ANNEX.A10:-TRUE COPY OF THE STATEMENT OF THE CW 8 DTD 12/2/2013. ANNEX.A11:-TRUE COPY OF THE STATEMENT OF THE CW 9 DTD 12/11/2013. ANNEX.A12:-TRUE COPY OF THE FINAL REPORT. RESPONDENT(S)' ANNEXURES: ----- N I L /TRUE COPY/ P.A.TO JUDGE Kss N.K. BALAKRISHNAN, J.

----- CrI.M.C. No. 1989 of 2014
----- Dated this the 4th day of April, 2014

ORDER

The petitioner is the 2nd accused in Crime No.34/2013 of Kanakakkunnu Police Station, which is now pending before the Judicial First Class Magistrate Court-I, Harippad as C.P.No.147/2013. Charge Sheet was laid by the Police alleging

commission of offences under sections 363, 376 and 506(i) r/w 34 of IPC.

2. The allegation is that the complainant/victim was kidnapped and raped. The main allegation is against the 1st accused. The 2nd accused is the mother of the 1st accused.

3. The learned counsel for the petitioner submits that on going through the entire records, it can be seen that there is absolutely no allegation against this petitioner, that she had at any point of time aided or abetted the commission of offence by the 1st accused. There is no CrI.M.C. No. 1989/2014 -2- allegation that this petitioner was also with the 1st accused and that she assisted A1 to kidnap the victim.

4. The only other charge is under section 506(i) of IPC. A casual and imprecise statement is there that this accused had threatened the complainant that she should not insist the 1st accused to marry her. Such a casual statement, even if it is accepted as true, cannot attract the offence under section 506(i) of IPC.

5. On going through the final report and the memorandum of evidence, there is nothing to indicate that this petitioner had caused criminal intimidation to the victim. Even if it is assumed that this petitioner had told the victim that she should not insist the 1st accused to marry her, it cannot be said that it will attract the offence of criminal intimidation. In the absence of any other material, it is inconceivable how this petitioner can be asked to face trial along with A1 who stands charged for the offences CrI.M.C. No. 1989/2014 -3- under section 366 and 376 of IPC. Even in the statement of the victim recorded by the learned Magistrate, nothing was stated to implicate the petitioner herein. Hence, I find that proceedings against this petitioner would be an exercise in futility.

6. In the result, this petition is allowed. Further proceedings against this petitioner in C.P. No.147/2013 of Judicial First Class Magistrate Court-I, Harippad, is quashed. The Court below will proceed against the 1st accused in accordance with law. Sd/- N.K. BALAKRISHNAN, JUDGE //True Copy// P.A. to Judge jjj