

Pradeep vs State of Kerala Represented by Public Prosecutor

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Court : Kerala

Decided On : Feb-29-2024

Judge : Honourable Mrs. Justice Sophy Thomas

Appeal No. : Crl.MC/7155/2022

Appellant : Pradeep

Respondent : State of Kerala Represented by Public Prosecutor

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE SOPHY THOMAS THURSDAY,
THE 29TH DAY OF FEBRUARY 2024 / 10TH PHALGUNA, 1945 CRL.MC NO.
7155 OF 2022 CRIME NO.458/2018 OF Kilikolloor Police Station, Kollam
AGAINST THE ORDER/JUDGMENT DATED IN SC NO.136 OF 2020 OF
DISTRICT COURT & SESSIONS COURT,KOLLAM PETITIONERS

1 PRADEEP AGED 29 YEARS ANANDAVILASAM SASTHANAGAR 18
ODAPPURAM KOIKKAL KANNIMELCHERIYIL KILIKOLLOOR P O
KILIKOLLOOR KOLLAM CITY KOLLAM, PIN - 691004 2 MANIKANDAN
AGED 60 YEARS ANANDAVILASAM SASTHANAGAR 18
ODAPPURAM KOIKKAL KANNIMELCHERIYIL KILIKOLLOOR P O

KILIKOLLOOR KOLLAM CITY KOLLAM, PIN - 691004 3 AMBI AGED 56 YEARS WIFE OF MANIKANDAN ANANDAVILASAM KILIKOLLOOR P O KILIKOLLOOR KOLLAM CITY KOLLAM, PIN - 691004 4 PRAVEENA AGED 32 YEARS WIFE OF SIVAKUMAR MUKHACHERI KIZHAKKATHIL SOUHARDA NAGAR 62 ELAVANTHIKULAM PATTATHANAM CHERIYIL KILIKOLLOOR P O KOLLAM CITY KOLLAM, PIN - 691004 5 SUJATHA KOIKKAL KILIKOLLOOR P O KILIKOLLOOR KOLLAM, PIN - 6 SULOCHANA AGED 63 YEARS DAUGHTER OF HAIMAVATHY PADINJATTUVILA VEEDU KADUVAKKUNNU CHITTATINKARA KIZHUVILLAM VILLAGE CHIRAYINKEEZHU TALUK THIRUVANANTHAPURAM, PIN - 695104 7 OMANA AGED 45 YEARS DAUGHTER OF SULOCHANA PADINJATTUVILA VEEDU KADUVAKKUNNU CHITTATINKARA KIZHUVILLAM VILLAGE CHIRAYINKEEZHU TALUK THIRUVANANTHAPURAM, PIN - 695104 CrI.M.C No.7155 of 2022 2

BY ADVS. C.RAJENDRAN B.K.GOPALAKRISHNAN R.S.SREEVIDYA
RESPONDENTS

1 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR HIGH COURT OF KERALA ERNAKULAM, PIN - 682031 2 GOPIKA AGED 22 YEARS DAUGHTER OF REENA PADINJATTUVILA PUTHENVEEDU NEAR CHERUVALLI MUKKU BRIDGE KOONTHALLOOR DESAM KIZHUVILAM VILLAGE THIRUVANANTHAPURAM 695104 NOW RESIDING AT ANANDAVILASAM SASTHANAGAR 18 ODAPPURAM KOIKKAL KANNIMELCHERIYIL KILIKOLLOOR P O KILIKOLLOOR KOLLAM CITY KOLLAM, PIN - 691004 BY ADVS. MANU M. B.N.HASKAR(K/125/2001)

OTHER PRESENT: SR.PP-SRI.VIPIN NARAYANAN THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 29.02.2024, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: CrI.M.C No.7155 of 2022 3

ORDER

This Crl.M.C., under Section 482 of Cr.P.C., is at the instance of accused Nos. 1 to 7 in Crime No.458 of 2018 of Kilikolloor police station, Kollam, for quashing Annexure A1 FIR and Annexure A2 Final Report in S.C No.136 of 2020 on the file of 1st Additional Sessions Court, Kollam.

2. The prosecution allegation is that the petitioner, with

the aid of his relatives, illegally married the defacto complainant, who belongs to a scheduled caste, before attaining her age of majority. Thereafter, the 1st accused along with accused Nos.2 to 4 mentally harrassed the defacto complainant for getting more dowry from her family. Thus he along with other accused committed offences punishable under Sections 9,10 and 11 of Prohibition of Child Marriage Act, 2006, Section 3(2)(v) of SC/ST (Prevention of Atrocities Act Amendment Act, 2015, Sections 366, 370, 498A, 376(2)(n) read with Section 34 of IPC and Sections 5 J(ii),(l),(q) read with 6, 16 and 17 of the Protection of Children from Sexual offences Act, 2012.

3. Learned counsel for the petitioners submitted that the

matter stands settled between themselves as well as respondent Crl.M.C No.7155 of 2022 4 No.2, as the 1st petitioner again married the 2nd respondent/victim after attaining majority, and now they are living happily together with their child. So, pendency of the criminal prosecution will cast a shadow on their family life. Therefore, it is absolutely necessary to quash Annexure A1 FIR and Annexure A2 Final Report in Crime No.458 of 2018 of Kilikolloor Police Station, Kollam, which is now pending on the file of 1st Additional Sessions Court, Kollam as S.C.No.136 of 2020. 4 Heard learned counsel for the petitioners, learned counsel for respondent No.2 and learned Public Prosecutor.

5. The petitioners produced Annexure A3 affidavit filed by the defacto complaint , which will show that the disputes have been amicably settled and they are residing happily along with their child.

6. Learned counsel for respondent No.2 submitted that

since the 1st petitioner again married the 2nd respondent/victim on attaining majority and they are living happily as husband and wife with their child, it is absolutely necessary to quash the CrI.M.C No.7155 of 2022 5 criminal proceedings pending against the petitioners in S.C.No.136 of 2020.

7. Learned Public Prosecutor also, on instructions,

submitted that the matter stands settled between the petitioners and respondent No.2, and the 1st petitioner again married the 2nd respondent on attaining majority, and they are living together as husband and wife with their child, in a peaceful manner.

8. The alleged incident occurred, while the 2nd

respondent/victim was aged only 16. The offences alleged includes an offence punishable under Section 376 of IPC and offenses under the POCSO Act. Since the victim also wants to see that, the criminal prosecution against the petitioners is set aside, for her to lead a peaceful family life with the 1 st petitioner, this Court is of the view that the matter has to be considered favourably, to meet the ends of justice, rather than the ends of law.

9. Learned counsel for the petitioners would rely on the

decision Vishnu v. State of Kerala [2023 (4) KHC 1], in which criminal proceedings involving offences punishable under the CrI.M.C No.7155 of 2022 6 POCSO Act, were quashed, on the basis of settlement arrived between the accused and the victim, who was a minor, at the time of occurrence. In the case on hand, though the victim was a minor at the time of occurrence, on her attaining majority, the 1st petitioner again married her lawfully. The settlement arrived is for the benefit of the victim also. So, considering the peculiar

facts and circumstances, this Court is of the view that

continuation of the criminal proceedings against the petitioners will not do justice to the parties, and rather it will be detrimental to their peaceful family life. In the result, the CrI.M.C. stands allowed, quashing Annexure A1 FIR and Annexure A2

Final report in S.C.No.136 of 2020, on the file of 1st Additional Sessions Court, Kollam. Sd/- SOPHY THOMAS JUDGE smm CrI.M.C No.7155 of 2022 7 APPENDIX OF CRL.MC 7155/2022 PETITIONER ANNEXURES Annexure A1 A COPY OF THE FIR NO. 458/2018 DATED STATION KOLLAM Annexure A2 A TRUE PHOTOCOPY FINAL REPORT DATED 1ST ADDITIONAL SESSIONS COURT, KOLLAM IN CRIME NO. 458/2018 AS SC NO. Annexure A3 A COPY OF THE ORIGINAL AFFIDAVIT OF THE 2ND RESPONDENT/ DE-FACTO COMPLAINANT DATED 27/09/2022

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