

Faisal vs the State of Kerala

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Court : Kerala

Decided On : Oct-17-2023

Judge : Honourable Mr. Justice Gopinath P.

Appeal No. : Crl.MC/477/2022

Appellant : Faisal

Respondent : The State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P.
TUESDAY, THE 17TH DAY OF OCTOBER 2023 / 25TH ASWINA, 1945
CRL.MC NO. 477 OF 2022 PETITIONER/SOLE ACCUSED: FAISAL
AGED 30 YEARS FAISAL MANZIL, THOPPUVAYALIL HOUSE,
VADAKKEVILA.P.O. KOLLAM, PIN - 691010 BY ADV T.R.RAJAN
RESPONDENT/S: 1 THE STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, THE HIGH COURT OF KERALA,
ERNAKULAM. ERNAKULAM, PIN - 682031 2 THE SUB INSPECTOR
OF POLICE KOLLAM, PIN - 691001 3 XXXXXXXXXXXX XXXXXXXXXXXX
XXXXXXXXXXXX BY ADVS. ADVOCATE GENERAL OFFICE KERALA
SAJU J PANICKER SRI NOUSHAD K.A. (SR PP) THIS CRIMINAL

MISC. CASE HAVING COME UP FOR ADMISSION ON 17.10.2023,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:
CRL.MC NO. 477 OF 2022 2

ORDER

Petitioner is the sole accused in Crime No.16/2022 of Kollam West police station, Kollam district, alleging commission of offences punishable under Section 376(2)(n) of the Indian Penal Code.

2. Allegation against the petitioner is that, the petitioner entered into a relationship with the de facto complainant/victim on the false promise of marriage and thereafter withdrew from the promise of marriage.

3. Learned counsel appearing for the petitioner would

submit that the petitioner had married the victim on 04.05.2022 and they are now living together as husband and wife. Reference is made in this regard to Annexure-5 marriage certificate issued by the Marriage officer, Nooranad, Alappuzha. It is submitted that the victim has also given a statement before the police stating that the crime came to be registered on the basis of a misunderstanding/mistake of fact.

4. Heard the learned Public prosecutor also.

5. Having heard the learned counsel appearing for the

petitioner, learned Public Prosecutor and the learned counsel CRL.MC NO. 477 OF 2022 3 appearing for the 3rd respondent and considering the facts and circumstances of the case, I am of the opinion that no offence under Section 376(2)(n) of the Indian Penal Code can be stated to have been committed by the petitioner. Specific allegation against the petitioner is that he had entered into sexual relationship with the victim on the false promise of marriage. Annexure-A5 marriage certificate shows that the petitioner had married the de facto complainant/victim on 04.05.2022. Therefore, this is a fit case where jurisdiction of this Court under Section 482 Cr.P.C can be exercised and further proceedings

against the petitioner can be quashed. Accordingly, the Crl.M.C is allowed and all further proceedings in Crime No.16/2022 of Kollam West police station will stand quashed as against the petitioner. Sd/- GOPINATH P. JUDGE ajt CRL.MC NO. 477 OF 2022 4 APPENDIX OF CRL.MC 477/2022 PETITIONER ANNEXURES Annexure1 CERTIFIED COPY OF FIR NO 16/2022 OF THE Annexure2 TRUE COPY OF THE AGREEMENT DATED 5/1/2022 EXECUTED BETWEEN THE 3RD RESPONDENT AND THE PETITIONER Annexure3 TRUE COPY OF THE AFFIDAVIT DATED 13/1/2022 SWORN TO BY THE 3RD RESPONDENT

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