

Victim vs State of Kerala

Victim vs State of Kerala

SooperKanoon Citation : sooperkanoon.com/1346891

Court : Kerala

Decided On : Oct-09-2023

Judge : Honourable Mr. Justice P.Somarajan

Appeal No. : Crl.Rev.Pet/1236/2007

Appellant : Victim

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.SOMARAJAN
MONDAY, THE 9TH DAY OF OCTOBER 2023 / 17TH ASWINA, 1945
AGAINST THE JUDGMENT DATED 21/12/2006 IN SC 461/2006 OF
ADDL.SSESSIONS COURT/SPECIAL COURT (NDPS ACT CASES),
THODUPUZHA REVISION PETITIONER/DEFACTO COMPLAINANT:
SALOMY, D/O. VARGHESE, VARUGHAT HOUSE,
PALLIKARAMURIYIL HOUSE, MARIMANOOR, THODUPUZHA TALUK.
SRI.SASTHAMANGALAM S. AJITHKUMAR SRI.RENJITH B.MARAR
RESPONDENTS/STATE & ACCUSED: 1 STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,, HIGH COURT OF
KERALA, ERNAKULAM. 2 JOSE, S/O.MATHECHAN, NEDUMALAYIL

HOUSE PALLIMATTOM BHAGAM, PALLIKKAMURI KARA,
KAMANNUR VILLAGE, THODUPUZHA.
SRI.UNNIKRISHNAN.V.ALAPATT BY ADV. SMT M N MAYA, PUBLIC
PROSECUTOR THIS CRIMINAL REVISION PETITION HAVING COME
UP FOR HEARING ON 09.10.2023, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

ORDER

It is against the order of acquittal of accused in a case charge-sheeted by the police for the offence under Section 376 and 312 IPC,

the victim came up in revision. The order of acquittal was passed mainly on the reason that the alleged cohabitation with the victim by the accused was with active consent, by disbelieving the oral testimony of PW6 and medical evidence adduced through PW3, the doctor who conducted medical termination of pregnancy (MTP) on the victim.

2. The legal question came up for

consideration is what actually amounts

accused right from the year 1986 i.e. while she was under the age of sixteen to seventeen. The relationship continued till the year 2003 until she attained the age of 33. The accused was unmarried and got married only in the year 2003. The case of victim is that consent for cohabitation was obtained under the guise of an offer to marry her. She has also admitted that earlier she had delivered a child in the year 1995 and the child was given to an orphanage. It is also admitted by her that the relationship was continued for a long period of fifteen years. Earlier she became pregnant and gave birth to a child in the year 1995. There is no evidence to show that she had raised any demand for marriage at any point of time or in the year

1995. The case advanced by the petitioner that

she did raise a demand to marriage at the time when she became pregnant earlier in the year 1995 cannot be accepted as it has got its own improbability and inconsistency. She had delivered a child and given to an orphanage and continued her relationship with the accused after the delivery of the child till the year

2003. Further, no evidence was adduced to show

that the accused is the father of the ch

action taken worth the name against the accused or any refusal to marry her. Necessarily, the finding rendered by the trial court acquitting the accused on all charges deserves no interference. The Criminal Revision Petition fails, hence dismissed. Sd/- P.SOMARAJAN JUDGE SPV

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com