

X vs State of Kerala

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Court : Kerala

Decided On : Oct-31-2023

Judge : Honourable Mr. Justice Gopinath P.

Appeal No. : Crl.MC/5241/2022

Appellant : X

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P.
TUESDAY, THE 31ST DAY OF OCTOBER 2023 / 9TH KARTHIKA,
1945 CRL.MC NO. 5241 OF 2022 CRIME NO.1820/2021 OF
KATTAPPANA POLICE STATION, IDUKKI SC 196/2022 OF FAST
TRACK SPECIAL COURT, KATTAPPANA (POCSO) PETITIONER: X
BY ADVS. S.RAJEEV V.VINAY M.S.ANEER PRERITH PHILIP JOSEPH
SARATH K.P. ANILKUMAR C.R. RESPONDENTS: 1 STATE OF
KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT
OF KERALA, ERNAKULAM, PIN 682031 (CRIME NO 1820/2021 OF
KATTAPANA POLICE STATION, IDUKKI DISTRICT). 2 Y BY
ADVS.SRI. VIPIN NARAYAN, SR.PUBLIC PROSECUTOR ANAND

KALYANAKRISHNAN FOR R2 THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 31.10.2023, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: CRL.MC NO.5241/2022 2

ORDER

Dated this the 31st day of October, 2023 The petitioner is the accused in Crime No.1820 of 2021 of Kattappana Police Station, Idukki District, alleging commission of offences under Sections 450, 376(2)(f) and 376(2)(n) of the Indian Penal Code and Section 4 read with Section 3(a), 6(1) read with Section 5(j)(ii), 5(n), 5(l) of Protection of Children from Sexual Offences Act.

2. The allegation against the petitioner is that the petitioner had sexually abused the victim who was a minor and had entered into sexual relationships with the minor on or after 11.09.2021.

3. The learned counsel appearing for the petitioner would submit that at the time when the petitioner alleged to have sexual relationship with the minor victim, the minor

victim was aged 17 years old. It is submitted that the petitioner and the minor victim were in a relationship and this is also revealed from the statement recorded from the minor victim under Section 164 Cr.P.C. which is on record as Annexure VI. It is submitted that following investigation, final report has been filed and the matter is now pending as

CRL.MC NO.5241/2022 3 S.C.No.196 of 2022 on the file of the Fast Track Special Court, Kattappana (POCSO). It is also submitted after the victim attained the age of minority, the petitioner and the victim got married and they are living together happily as husband and wife.

4. The learned Public Prosecutor and the learned counsel appearing for the defacto complainant/victim

confirm that the petitioner has married the defacto complainant/victim and they are living together happily as husband and wife. The learned Public Prosecutor also

states that a child was born out of the relationship.

5. Having heard the learned counsel appearing for

the petitioner, the learned Public Prosecutor and the learned counsel appearing for the second respondent, I am of the view that the proceedings against the petitioner can be quashed in exercise of the jurisdiction vested in this Court under Section 482 of the Code of Criminal Procedure. Annexure-V is the marriage certificate issued by the Local Registrar of Marriages, Kanchiyar Grama Panchayat, which indicates that the petitioner got married to the second respondent/victim/defacto complainant on 02.06.2022.

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6. This Court in Vishnu v. State of Kerala [2023

(3) KLT 754] has held that where the continuance of

proceedings would actually cause prejudice to the victim as well, the proceedings can be quashed in exercise of the jurisdiction under Section 482 of the Code of Criminal Procedure even though the offences alleged are heinous offences.

7. Taking into consideration the law laid down by

this Court in Vishnu's case (supra) and taking into account the fact that the petitioner and the second respondent are now living together as husband and wife with their child, I am of the view that continuance of the proceedings will cause prejudice to the victim as well. Accordingly, this CrI.M.C. is allowed and all further proceedings against the petitioner in S.C.No.196 of 2022 on the file of the Fast Track Special Court, Kattappana (POCSO) will stand quashed. Sd/- GOPINATH P. JUDGE csl

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