

X X X vs State of Kerala

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Court : Kerala

Decided On : Nov-03-2023

Judge : Honourable Mr. Justice Gopinath P.

Appeal No. : Crl.MC/6105/2023

Appellant : X X X

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P. FRIDAY,
THE 3RD DAY OF NOVEMBER 2023 / 12TH KARTHIKA, 1945 CRIME
NO.705/2023 OF Mavelikkara Police Station, Alappuzha
PETITIONER/ACCUSED: X X X AGED 67 YEARS X X X, PIN - 690101
BY ADVS. S.K.SAJI MAYAMOL T.S. G.R.MANJU
RESPONDENTS/STATE AND THE DEFACTO COMPLAINANT: 1
STATE OF KERALA REPRESENTED BY PUBLIC
PROSECUTOR,HIGH COURT OF KERALA, ERNAKULAM, KOCHI, PIN
- 682031 2 X X X X X X BY ADV PUBLIC PROSECUTOR SRI G.
SUDHEER (PP) THIS CRIMINAL MISC. CASE HAVING COME UP FOR
ADMISSION ON 03.11.2023, THE COURT ON THE SAME DAY

PASSED THE FOLLOWING:

ORDER

Petitioner is the accused in Crime No.705/2023 of Mavelikkara Police Station alleging commission of offences under Sections 7 and 8 of the POCSO Act. The allegation against the petitioner is that on 02.07.2023 at 5.00 p.m., the petitioner, with sexual intent, touched the private part of the 2 nd respondent, a boy aged 13 years and thereby he committed the offences alleged against him.

2. The learned counsel appearing for the petitioner

would submit that the petitioner is a 67 year old man, who retired from Central Government Service. It is submitted that the petitioner was thereafter employed in Middle-East for more than two decades. It is submitted that the petitioner was conducting a school of instrumental music, as the petitioner is a passionate Guitarist. It is submitted that the crime came to be registered on the basis of some misunderstanding. It is submitted that the father of the victim has executed Annexure- A2 affidavit stating that he has no objection, the proceedings against the petitioner being quashed.

3. The learned Public Prosecutor submits that the

statement has been recorded from the minor victim in the presence of his parents. It is stated that the minor victim has confirmed that he does not have any grievance against the petitioner and he does not wish to continue the proceedings against the petitioner.

4. Though the minor victim is arrayed as the 2 nd

respondent in this case, considering the fact, that the father of the victim has filed Annexure-A2 affidavit and also considering the fact that the statement has been recorded by the police from the minor victim, in the presence of his parents, I am of the view that considering the nature of the allegations and the

facts and circumstances of this case, the notice to the 2 nd

respondent can be dispensed with. The allegations against the petitioner are that the petitioner inappropriately touched the minor victim boy when he was a student in the guitar class being conducted by the petitioner. There is no other allegation against the petitioner. No criminal antecedents are also reported against the petitioner. Considering the fact that the victim as well as the father of the victim have stated that they have no grievance against the petitioner and they did not wish to proceed against the petitioner in any manner, I am of the view that the proceedings against the petitioner can be quashed. Considering the allegations and taking into consideration the submission of the learned counsel for the petitioner that the case was registered on the basis of some misunderstanding, I am of the view that the offence alleged against the petitioner do not fall in the category of heinous offences. Therefore, the proceedings against the petitioner in Crime No.705/2023 of Mavelikkara Police Station, Alappuzha District will stand quashed as against the petitioner. Sd/- GOPINATH P. JUDGE SSK/03/11 APPENDIX OF CRL.MC 6105/2023 PETITIONER ANNEXURES Annexure-A1 CERTIFIED COPY OF THE FIS AND FIR IN CRIME NO.705/2023 OF MAVELIKKARA POLLICE DATED 16.07.2023 ANNEXURE A2 TRUE COPY OF THE AFFIDAVIT OF THE FATHER OF THE 2ND RESPONDENT 18.07.2023

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