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XXX vs Yyy

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Court : Kerala

Decided On : Dec-18-2023

Judge : Honourable Mr. Justice Gopinath P.

Appeal No. : Crl.MC/9274/2023

Appellant : XXX

Respondent : YYY

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P. MONDAY, THE 18TH DAY OF DECEMBER 2023 / 27TH AGRAHAYANA, 1945 CRL.MC NO. 9274 OF 2023 CRIME NO.88/2023 OF Koodal Police Station, Pathanamthitta AGAINST THE ORDER/JUDGMENT SC 586/2023 OF ADDITIONAL SESSIONS COURT (ADHOC)-II, PATHANAMTHITTA PETITIONER/ACCUSED: XXX X, BY ADV UNNI SEBASTIAN KAPPEN RESPONDENT/DE FACTO COMPLAINANT/CW4/MOTHER OF THE VICTIM AND STATE: 1 YYY 2 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, EFNAKULAM, PIN - 682031 SRI. VIPIN NARAYAN (SR PP) SRI.V.A.JOHNSON

(VARIKKAPPALLIL THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 18.12.2023, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: CRL.MC NO. 9274 OF 2023 2

ORDER

Petitioner is the accused in Crime No.88/2023 of Koodal Police Station, Pathanamthitta District, alleging commission of offences under Sections 294(b) and 509 of the Indian Penal Code and Section 11(i) r/w.12 of the Protection of children from Sexual Offences Act, 2012. The matter is now pending as S.C. No.586/2023 on the file of the Additional District and Sessions Court-I, (POCSO Court), Pathanamthitta.

2. The allegation against the petitioner is that, on

5.2.2023 at about 8 p.m., the petitioner verbally abused CWs 2 and 3 and the victim had recorded the incident on a mobile phone. On seeing the victim recording the incident on her mobile phone, the petitioner/accused allegedly got infuriated and lifted his lungi and exhibited himself to the victim.

3. The learned counsel appearing for the petitioner

would submit that the entire issues between the petitioner and the de facto complainant/1st respondent (mother of the victim) have been settled. Learned counsel appearing for the petitioner also refers to Annexure D affidavit executed by the de facto complainant/1st respondent/ mother of the victim to CRL.MC NO. 9274 OF 2023 3 establish that the entire issues between the petitioner and the de facto complainant have been settled and the de facto complainant does not intend to continue with the proceedings against the petitioner.

4. The learned Public Prosecutor and the learned counsel appearing for the de facto complainant/ 1st respondent/mother of the victim would confirm that the entire

issues between the petitioner and the de facto complainant

have been settled and the de facto complainant does not wish to continue with the prosecution in any manner.

5. Having heard the learned counsel for the petitioner,

> the learned Public Prosecutor and the learned counsel for the defacto complainant/ 1st respondent, I am of the view that this is fit case where the jurisdiction of this Court under Section 482 of Cr.P.C. can be invoked to quash the proceedings against the petitioner on the ground of settlement. The principles governing the circumstances in which this Court can exercise the jurisdiction under Section 482 of the Cr.P.C to quash criminal proceedings in respect of non-compoundable offences are delineated by the judgments of the Supreme Court in Gian Singh V. State of Punjab [(2012) 10 SCC 303] and State

> of Madhya Pradesh V. Laxmi Narayan and Others [(2019) 5 SCC 688]. It is clear from the reading of the aforesaid judgments that offences of heinous nature cannot be quashed on the ground of subsequent settlement. Here, the nature of the offences does not compel me to hold that the proceedings cannot be quashed on the ground of settlement. No public interest will be served by continuing with the proceedings against the petitioner. It is unlikely that the State will be able to successfully prosecute the case against the petitioner. In that view of the matter, I am of the view that this is fit case where the jurisdiction of this Court under Section 482 of Cr.P.C. can be invoked to quash the proceedings against the petitioner on the ground of settlement.

Accordingly, this Crl.M.C. is allowed and all further proceedings in S.C. No.586/2023 on the file of the Additional District and Sessions Court-I (POCSO Court) (arising out of Crime No.88/2023 of Koodal Police Station, Pathanamthitta District), will stand quashed as against the petitioner. Sd/- GOPINATH P. JUDGE ajt CRL.MC NO. 9274 OF 2023 5 APPENDIX True copy of the Final Report in S.C

No:586/2023 before the Court of the ANNEXURE A Additional District and Sessions Court-I(POCSO Court), Pathanamthitta in Crime No: 88/2023 of Koodal Police Station, Pathanamthitta District True copy of the First Information statement given by the victim in the case ANNEXURE B dated 08.02.2023 True copy of the not press memo filed by the grand mother of the victim ANNEXURE C before the Munsiff Court, Adoor in O.s. NO. 156/2022 dated 05.10.2023 The affidavit sworn to by the 1st respondent/CW4 herein evidencing the ANNEXURE D aforesaid fact

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