

Rajeev M.S., vs the State of Kerala,

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Court : Kerala Orders

Decided On : Nov-30-2023

Judge : Honourable Mr. Justice Gopinath P.

Appeal No. : Crl.MC/7461/2018

Appellant : Rajeev M.S.,

Respondent : The State of Kerala,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P.
THURSDAY, THE 30TH DAY OF NOVEMBER 2023 / 9TH
AGRAHAYANA, 1945 CRL.MC NO. 7461 OF 2018 CRIME NO.8/2018
OF Manjeri Police Station, Malappuram PETITIONER/ACCUSED:
RAJEEV M.S., AGED 36 YEARS MATHAMPARAMBIL HOUSE,
ELAMKOOR ANGADI, MANJERI, MALAPPURAM DISTRICT. BY ADV
K.RAKESH RESPONDENTS/STATE & DEFACTO COMPLAINANT: 1
THE STATE OF KERALA, REPRESENTED BY THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, KOCHI,
PIN - 682 031-FOR THE STATION HOUSE OFFICER, MANCHERRY
POLICE STATION, MALAPPURAM DISTRICT. 2 MANJU, AGED 22

YEARS W/O.RAJESH, CHEMMINIKKARA, ELAMKOOR P.O., MALAPPURAM DISTRICT, PIN-676122. BY ADVS. PUBLIC PROSECUTOR SMT.M.CHANDRALEKHA SRI VIPIN NARAYAN (SR PP) SMT.M.CHANDRELEKHA THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 30.11.2023, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

The petitioner has approached this court seeking to quash the First Information Report in Crime No.8 of 2018 on the file of the Manjeri Police Station, Malappuram District. The petitioner faces allegations of having committed the offences punishable under Sections 447 and 354 of the IPC and under Section 3(1)(w)(i) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. The allegation against the petitioner is that on

15.11.2017, at about 11.45 p.m, he molested the 2nd respondent/defacto complainant while she came out of her house to go to the toilet by grabbing her on her private parts and by tearing her dress. It is also alleged that he had called her by her caste name and insulted her. This Criminal M.C. was filed stating that at the instance of the wife of the petitioner herein, two cases had been registered against the husband of the defacto complainant and Crime

No.526 of 2017 at the instance of the wife of the petitioner herein alleges the commission of offence under Section 376 of IPC. Yet another crime namely Crime No.130 of 2017 of Manjeri police Station has also been registered against the husband of the defacto complainant alleging commission of offence under Section 354 of the Indian Penal Code. It is the submission of the learned counsel appearing for the petitioner that the registration of Crime No.8 of 2018 of Manjeri Police Station is nothing

but a counter blast to the registration of the crimes as above against the husband of the defacto complainant and therefore, the registration of the crime is nothing but a malafide action on the part of the 2 nd respondent. When this matter is taken up for consideration today, it is also the submission of the learned counsel for the petitioner that the entire issues between the petitioner and the 2 nd respondent have been settled.

4. However, the counsel appearing for the 2nd respondent submits that she has no instructions regarding any settlement.

5. The learned Public Prosecutor submits that on

account of the interim order dated 07.11.2018 in this case, the investigation into Crime No.8 of 2018 of Manjeri Police Station has not progressed and this Criminal M.C. may, therefore, be closed making clear that it will be open to the petitioner to challenge the final report, if any, filed against the petitioner on completion of investigation.

6. Having heard the learned counsel for the

petitioner, the learned Public Prosecutor and the learned counsel appearing for the 2 nd respondent, I am of the view that this Criminal M.C. is liable to be closed without considering the merits of the contentions taken in the matter. The investigation into Crime No.8 of 2018 has not progressed on account of the interim order of this Court dated 07.11.2018. The question as to whether the registration of Crime No.8 of 2018 was a malafide action on the part of the 2nd respondent/defacto complainant is also a

matter that can be considered during the course of the investigation. The settlement stated to be arrived at can also be a matter that can be brought to the notice of the Investigating Officer in Crime No.8 of 2018 of Manjeri Police Station. Therefore, without going into the merits of the matter and leaving open all contentions raised by the petitioner, this

Criminal M.C. is closed, making it clear that it will be open the petitioner to approach this Court for challenging any Final Report that may be filed in Crime No.8 of 2018 of Manjeri Police Station, on the very same grounds as raised in this Criminal M.C., if necessary, at a later stage.
Sd/- GOPINATH P. JUDGE SSK/30/11

APPENDIX OF CRL.MC 7461/2018 PETITIONER ANNEXURES Annexure F
AFFIDAVIT SWORN TO BY THE 2ND RESPONDENT DATED, 18-

8-2023 ANNEXURE B TRUE COPY OF THE F.I.R AND F.I.S IN CRIME NO.526/2017 OF MANCHERRY POLICE STATION DATED 13.11.2017. ANNEXURE C TRUE COPY OF THE F.I.R AND F.I.S IN CRIME NO.130/2017 OF MANCHERRY POLICE STATION, DATED 24.03.2017. ANNEXURE D TRUE COPY OF THE COMPLAINT MADE BY THE PETITIONER'S WIFE BEFORE THE DISTRICT COLLECTOR, MALAPPURAM DATED 06.01.2018. ANNEXURE A TRUE COPY OF THE F.I.R. DATED 03.01.2018 IN CRIME NO.8/2018 OF THE MANCHERRY POLICE STATION. ANNEXURE E TRUE COPY OF THE COMPLAINT SUBMITTED TO THE DY.S.P., MALAPPURAM DATED 30.10.2018.

RESPONDENT ANNEXURES ANNEXURE THE COPY OF THE COMPLAINT AGAINST THE PETITIONER R2(A) BEFORE THE DISTRICT CUPERINTENDENT OF POLICE, MALAPPURAM DATED 20.11.2017. ANNEXURE THE COPY OF THE FIR. R2(B)

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