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Abhilash E.S vs State of Kerala

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Court : Kerala Orders

Decided On : Oct-26-2021

Judge : Honourable Mr.Justice Ziyad Rahman a.a.

Appeal No. : Crl.MC/737/2018

Appellant : Abhilash E.S

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A. TUESDAY, THE 26TH DAY OF OCTOBER 2021 / 4TH KARTHIKA, 1943 PETITIONER/ACCUSED: ABHILASH E.S AGED 34 YEARS S/O. CHANDRAN, EDATHIL PARAMBIL HOUSE, PALISSERY, KALLOOR, THRISSUR DISTRICT. BY ADVS. SRI.M.KIRANLAL SRI.G.KIRAN SRI.NEBIL NIZAR SRI.R.RAJESH VARKALA RESPONDENTS/DE FACTO COMPLAINANT/STATE: 1 STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM - 682 031 2 SUB INSPECTOR OF POLICE MALA POLICE STATION,THRISSUR - 680 732 3 JAYALAKSHMI W/O. ANEESH GOPI MEKKATHU HOUSE, PALAPUZHA, KALLOOR

THEKKUMMURI, MALA, THRISSUR DISTRICT - 680 732 BY ADV. PP-SRI. ARAVIND MATHEW. THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 26.10.2021, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

This is a petition submitted by the sole accused in Crime No.964 of 2017 of Mala Police Station seeking to quash Annexure A2 Final Report. As per Annexure A2 Final Report, the offences alleged are under Sections 506 and 509 of Indian Penal Code.

2. The case of the prosecution is that the petitioner as well as the de facto complainant was in a love affair. However, due to certain difference of opinion between the parties, the de

facto complainant retracted from the said relationship. Thereafter, the de facto complainant married another person and in order to prevent the de facto complainant from the said marriage, the petitioner has forwarded certain photographs of the petitioner to the husband of the de facto complainant and also made certain threat against her and thereby committed the offences mentioned above.

3. Heard the learned counsel for the petitioner and the learned Public Prosecutor.

4. The learned counsel contends that the allegations

contained in Annexure A2 are too vague, as the specific details with regard to the date and time of the threat alleged to have been made by the petitioner is lacking in the said case and therefore no case is made out against the petitioner. However on going through the contents of the statement of the de facto complainant which forms part of Annexure A2, it can be seen that specific allegation of threat and transmitting certain photographs of the de facto complainant is mentioned therein. As the contention put forward by the learned counsel for the petitioner is basically a question of fact, I do not think that it is proper for this Court to entertain the same at this juncture. In a proceeding under Section 482, this Court is not supposed to

go into the factual aspects of the case by evaluating the evidence. In such circumstances, I am of the view that no case for

invocation of the powers of this Court under Section 482 is made out. Accordingly, this Crl.M.C. is dismissed. However, it is made clear that, the dismissal of this Crl.M.C. shall not preclude the petitioner from seeking discharge before the trial court and in such an event, the trial court shall consider the contentions of the petitioner untrammeled by any of the observations contained in this order.

Sd/- ZIYAD RAHMAN A.A. JUDGE scs APPENDIX OF CRL.MC 737/2018 PETITIONER ANNEXURE ANNEXURE A1: THE TRUE COPY OF THE FIR IN CRIME NO. 964 OF 2017 OF MALA POLICE STATION THRISSUR. ANNEXURE A2: A TRUE COPY OF THE FINAL REPORT DATED 26.08.2017. ANNEXURE A3: THE TRUE COPY OF THE 164 STATEMENT DATED 29.09./2015.

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