

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE K.HARIPAL

TUESDAY, THE 20TH DAY OF APRIL 2021 / 30TH CHAITHRA, 1943

Cr1.MC.No.5765 OF 2020 (A)

(FILED UNDER SECTION 482 OF THE CODE OF CRIMINAL PROCEDURE, 1973
TO QUASH ANNEXURE 1 F.I.R.AND ANNEXURE 2 FINAL REPORT AND ALL
OTHER PROCEEDINGS IN SC 717/2019 ON THE FILES OF THE FIRST
ADDITIONAL SESSIONS COURT, THRISSUR)

CRIME NO.108/2019 OF KODAKARA POLICE STATION , THRISSUR

PETITIONER/ACCUSED:

XXX
AGED 22 YEARS
X

BY ADV. SHRI.ABRAHAM MATHAN

RESPONDENTS/VICTIM/DEFACTO COMPLAINANT AND STATE:

- 1 XXX
 X
- 2 XXX
 X
- 3 STATE OF KERALA
 REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF
 KERALA, ERNAKULAM.
- 4 THE STATION HOUSE OFFICER
 KODAKARA POLICE STATION, KODAKARA - 680 684.

R1-2 BY ADV. SRI.K.ANAND (A-1921)

SR.PUBLIC PROSECUTOR - ADV.SRI. K.B. UDAYAKUMAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
20.04.2021, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

Dated this the 20th day of April 2021

This petition is filed under Section 482 of Criminal Procedure Code. The sole accused in Crime No.108/2019 of Kodakara Police Station, seeks quashment of the criminal proceedings initiated against him. According to him, he is the accused in S.C.No.717 of 2019 pending before the 1st Additional Sessions Court, Thrissur, alleging offence punishable under Sections 450, 370,363, 376(2)(n) of the Indian Penal Code and Sections 4 r/w 3(a) and 6 r/w 5(1) of the POSCO Act. The crime was registered on 20.02.2019 initially under Section 57 of the Kerala Police Act. Later, after the investigation the above sections of law were incorporated and the petitioner was arrayed as the accused.

2. At the time of the incident, the victim girl was only 17 years old, now it is stated that on 16.11.2020, the petitioner has married the girl. In this context, now it is stated that the matter has been settled between the parties and the petitioner

and the 2nd respondent are living as husband and wife. Therefore, the proceedings are sought to be quashed.

3. The defacto complainant who is the father of the quantum major and also the prosecutrix have filed affidavits stating that they have no objection in quashing the proceedings.

4. The learned Public Prosecutor submits that he has no instruction with regard to the settlement reached between the parties.

5. I heard the learned counsel for respondents 1 and 2 also. I have also gone through the affidavits filed by respondents 1 and 2 and also the marriage certificate dated 16.11.2020, proving the marriage between the petitioner and the 2nd respondent.

6. In the light of the fact that, they have entered into matrimonial relationship, there is no purpose in continuing the proceedings. Even if the trial court is allowed to proceed with the trial of the case, it is sure that material witness who are respondents 1 and 2 are not going to support the case. That

means, it would be a futile exercise to continue the proceedings.

7. The Hon'ble Supreme Court has held that in such cases courts should always take a pragmatic view. When the parties themselves settle the dispute and approach the High Court for quashing the proceedings, the High Court cannot refuse to invoke its inherent jurisdiction under Section 482 of Cr.P.C. For the well being of the couple also, it is only expedient to terminate the proceedings. The proceedings is quashed, no public interest is going to hamper.

In the circumstances, the Crl.M.C. is allowed and Annexure 2 charge sheet is quashed.

sd/-

K. HARIPAL
JUDGE

SMF

APPENDIX

PETITIONER'S EXHIBITS:

- ANNEXURE 1 TRUE COPY OF FIR IN CRIME NO.108 OF 2019
OF KODAKARA POLICE STATION DATED
21.02.2019.
- ANNEXURE 2 TRUE COPY OF THE FINAL REPORT IN CRIME
NO.108 OF 2019 OF KODAKARA POLICE STATION
DATED 03.10.2019.
- ANNEXURE 3 TRUE COPY OF THE AFFIDAVIT FILED BY THE
1ST RESPONDENT DATED 06.10.2020.
- ANNEXURE 4 TRUE COPY OF THE AFFIDAVIT FILED BY THE
2ND RESPONDENT DATED 06.10.2020.
- ANNEXURE 5 TRUE COPY OF THE MARRIAGE CERTIFICATE OF
THE PETITIONER AND FIRST RESPONDENT DATED
16.11.2020.

//TRUE COPY//
PA TO JUDGE