



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

WEDNESDAY, THE 25TH DAY OF SEPTEMBER 2024 / 3RD ASWINA, 1946

CRL.MC NO. 8147 OF 2023

CRIME NO.686/2023 OF Chalakudy Police Station, Thrissur

PETITIONER/ACCUSED:

XXXXXXXXXX
XXXXXXXXXX XXXXXXXXXXXX

BY ADVS.
PRABHU K.N.
MANUMON A.

RESPONDENTS/COMPLAINANT & DE-FACTO COMPLAINANT:

1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN - 682031.

2 XXXXXXXXXXXX
XXXXXXXXXX XXXXXXXXXXXX

PUBLIC PROSECUTOR SRI M P PRASANTH

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
06.09.2024 ALONG WITH CRL.M.C.NO.10579/2023, THE COURT ON
25.09.2024 PASSED THE FOLLOWING:



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

WEDNESDAY, THE 25TH DAY OF SEPTEMBER 2024 / 3RD ASWINA, 1946

CRL.MC NO. 10579 OF 2023

CRIME NO.686/2023 OF Chalakkudy Police Station, Thrissur

PETITIONER/VICTIM REPRESENTED THROUGH DE-FACTO COMPLAINANT:

XXXXXXXXXX
XXXXXXXXXX XXXXXXXXXXXX

BY ADVS.
DINESH G WARRIER
JAYAN KUTTICHAKKU
SURESH C.

RESPONDENTS/STATE OF KERALA REP. BY PUBLIC PROSECUTOR:

- 1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
PIN - 682031.
- 2 STATION HOUSE OFFICER
CHALAKUDY POLICE STATION, NEAR CHALAKUDY CHURCH,
THRISSUR DISTRICT, CHALAKUDY, KERALA, PIN - 680307.
- 3 SUPERINTENDENT
TALUK HEAD QUARTER HOSPITAL,
PALACE RD, CHALAKUDY, KERALA, PIN - 680307.
- 4 DIRECTOR, REGIONAL FORENSIC SCIENCE LABORATORY
KERALA POLICE ACADEMY (KEPA, RAMAVARMAPURAM, THRISSUR,
KERALA, PIN - 680631.



2024:KER:72392

Cr1.M.C.Nos.8147/23 & 10579/2023

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5 XXXXXXXXXX, AGED XXXX YEARS,
 XXXXXXXXXX XXXXXXXXXXXX

BY ADVS.
MANUMON A.
REBIN VINCENT GRALAN(K/000473/2015)

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
06.09.2024 ALONG WITH CRL.M.C.NO.8147/2023, THE COURT ON
25.09.2024 PASSED THE FOLLOWING:

A. BADHARUDEEN, J.

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CrI.M.C.Nos.8147 of 2023-G
and
10579 of 2023
=====

Dated this the 25th day of September, 2024

C O M M O N O R D E R

CrI.M.C.No.8147 of 2023 is at the instance of the accused in Crime No.686 of 2023 of Chalakkudy Police Station, Thrissur, and the prayer herein is to quash seizure of the blood sample of the petitioner forcefully collected for DNA profiling without his consent or permission of the jurisdictional court, vide Annexure-A2 and incorporation of the petitioner as accused in Crime No.686 of 2023 without any materials as against him vide Annexure-A3 report submitted by the SHO, Chalakudi Police Station.

2. CrI.M.C.No.10579 of 2023 is at the instance of the victim represented through defacto



complainant in the above crime and the prayer is to quash seizure of the blood sample from the body of the victim for the purpose of DNA profiling by respondents 2 to 4 by coercing the victim and the defacto complainant and without the permission of the jurisdictional court and also to quash the DNA profiling report prepared and served by the 4th respondent to the 2nd respondent and Annexure-A1 FIR and further proceedings thereto.

3. Both these petitions arise out of Crime No.686/2023 of Chalakkudy Police Station, where the prosecution alleges commission of offences punishable under Sections 376 ad 376(3) of the Indian Peal Code as well as Section 6(1) ad 5j(ii) of the Protection of Children from Sexual Offences Act ('POCSO Act' for short), by the accused. The prosecution allegation is that when it was noticed by the hospital authorities at St.James Hospital, Chalakkudy, that a 14 year old female victim was pregnant on scan examination, the same was informed to the mother of the victim/the defacto complainant and in turn informed the Chalakkudy police. Thus crime was registered alleging commission of the above offences by the accused.



4. Both these Crl.M.Cs have been filed under Section 482 of the Code of Criminal Procedure ('Cr.P.C' for short). It is discernible that based on the information received regarding the occurrence though the statement of the minor victim was attempted to be recorded, the same was not materialised, initially due to the mental and physical sufferings she had during the pregnancy. Accordingly, the statement of her mother was recorded and FIR was registered. On investigation it was found that the accused herein subjected the minor victim to sexual intercourse during the period from 01.04.2023 to 26.05.2023 ad she became pregnant thereafter. This is the base on which the prosecution alleges commission of the above offences.

5. While pressing for the relief sought for in Crl.M.C.No.8147/2024, the learned counsel for the accused, would submit that the blood sample of the petitioner was forcefully collected for DNA profiling without his consent or permission of the jurisdictional court. Therefore, the accused prayed for quashment of seizure of his blood sample for DNA profiling and other reliefs.

6. In Crl.M.C.No.10579/2023, the victim in the above



crime seeks to quash the seizure of the blood sample from her body for the purpose of DNA profiling on the ground that it was done by coercion on the victim ad without getting permission of the jurisdictional court.

7. The respective counsel argued further that the accused in this crime is none other than the direct brother of the victim and if the DNA profiling result would be found positive the same would be fatal to the interest of the accused as well as the victim. Accordingly they pressed for the respective reliefs sought for.

8. Now the DNA profiling result is made available and the learned Public Prosecutor produced the same in a sealed cover, for the perusal of this Court.

9. Going by the contentions raised by the defacto complainant as well as the victim, the same have no legal footing since collection of blood samples from the accused is legally permissible as part of the investigation under Sections 53 and 54 of the Cr.P.C read with Explanation(a) to Section 53. Sections 51 and 52 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS' for short) are the *para materia* provisions. Thus DNA profiling of the accused to compare



the same with that of the victim to prove the prosecution allegation is legally permissible and in such a case merely on the ground that the accused and the victim are siblings, the law doesn't give any exception or concession. In view of the above legal principle, these petitions would necessarily fail.

10. Holding so, both these Crl.M.Cs stand dismissed.

Interim order granted shall stand vacated.

Registry shall forward a copy of this order to the jurisdictional court for information and further steps.

Sd/-

A. BADHARUDEEN, JUDGE

rtr/



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Cr1.M.C.Nos.8147/23 & 10579/2023

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APPENDIX IN CRL.M.C.NO.8147/2023

PETITIONER'S EXHIBITS

ANNEXURE-A1 : CERTIFIED COPY OF THE FIR & FIS IN CRIME NO.686/2023 OF CHALAKUDY POLICE STATION, THRISSUR DISTRICT DT.10.06.2023.

ANNEXURE -A2 : TRUE COPY OF THE SEIZURE MAHAZER REGARDING THE BLOOD SAMPLE OF THE PETITIONER IN CRIME NO.686/2023 OF CHALAKUDY POLICE STATION, THRISSUR DISTRICT DT.22.07.2023.

ANNEXURE-A3 : CERTIFIED COPY OF THE REPORT SUBMITTED BY THE SHO CHALAKUDI POLICE STATION INCORPORATING THE PETITIONER AS ACCUSED IN CRIME NO.686/2023 OF CHALAKUDI POLICE STATION, THRISSUR DISTRICT DT.22.07.2023.



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APPENDIX IN CRL.M.C.NO.10579/2023

PETITIONER'S EXHIBITS

ANNEXURE-A1 : TRUE COPY OF THE FIR & FIS IN CRIME NO.686/2023 OF CHALAKUDY POLICE STATION, THRISSUR DISTRICT DT.10.06.2023.

ANNEXURE -A2 : TRUE COPY OF THE SEIZURE MAHAZER REGARDING THE BLOOD SAMPLE COLLECTION OF VICTIM PREPARED UNDER THE SUPERVISION OF 2ND RESPONDENT IN CRIME NO.686/2023 OF CHALAKUDY POLICE STATION, THRISSUR DISTRICT DT.11.06.2023.

ANNEXURE-A3 : TRUE COPY OF THE FORM NO.15 UNDER R.253 OF CRIMINAL RULES OF PRACTICE CONTAINING MEDICO LEGAL EXAMINATION REPORT OF VICTIM PRODUCED BY 2ND RESPONDENT BEFORE THE HONOURABLE COURT OF FIRST ADDITIONAL DISTRICT & SESSIONS, THRISSUR IN CRIME NO.686/2023 OF CHALAKUDY POLICE STATION, THRISSUR DISTRICT DT.11.06.2023.