



2024/KER/58340

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

THURSDAY, THE 1ST DAY OF AUGUST 2024 / 10TH SRAVANA, 1946

CRL.MC NO. 1955 OF 2023

CRIME NO.584/2000 OF Vadakkancherry Police Station,
Palakkad

CP NO.72 OF 2022 OF JUDICIAL MAGISTRATE OF FIRST
CLASS ,ALATHUR, PALAKKAD

PETITIONER/ACCUSED:

PRADEESH KUMAR
AGED 44 YEARS
S/O. KUMARANASSARI, THEKKETHARA HOUSE,
ANJUMURTHYMANGALAM POST, PALAKKAD (DIST.), PIN
- 678682

BY ADVS.
ASWIN K.R.
A.R.ADHEETH LAL(K/1810/2022)

RESPONDENTS/STATE & DEFACTO COMPLAINANT:

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

2 XXXXXXXXXXXX
XXXXXXXXXXXX XXXXXXXXXXXX

BY ADVS.
PUBLIC PROSECUTOR SRI M.P.PRASANTH
ARUN KUMAR M.A.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR
ADMISSION ON 15.07.2024, THE COURT ON 01.08.2024 PASSED
THE FOLLOWING:



A. BADHARUDEEN, J.

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Crl.M.C No.1955 of 202e-D
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Dated this the 1st day of August, 2024

O R D E R

This criminal miscellaneous case has been filed under Section 482 of the Code of Criminal Procedure, by the sole accused in C.P.No.72/2022 on the files of Judicial First Class Magistrate Court-I, Alathur, arose out of Crime No.584 of 2000 of Vadaakkenchery Police Station, seeking to quash Annexure-B final report and all proceedings in the above case.

2. Heard the learned counsel for the petitioner and the learned Public Prosecutor. Perused Annexure-B final report and the relevant documents.

3. Here the prosecution alleges offences punishable under Sections 450 r/w 376 of the Indian Penal Code. The specific allegation is that at about 11.30 hours on 19.12.2000



the accused criminally trespassed into the residence of the defacto complainant and tied her hands. Thereafter he put cloth on the mouth of the defacto complainant and subjected her to rape despite her resistance. He had taken nude photos of the defacto complainant also. This is the base on which the prosecution alleges commission of the above offences.

4. The learned counsel for the petitioner argued at length to convince that the allegations are false. He also read out the FIS at length and an affidavit filed by the defacto complainant in support of the settlement.

5. Whereas it is submitted by the learned Public Prosecutor that in this matter the allegations are very serious and in such a case merely acting on the affidavit filed by the defacto complainant, quashment of the proceedings could not be resorted to.

6. The law as it stands is that although High Court can invoke its jurisdiction u/s.482 Cr.P.C. even in non-



compoundable offence and can quash the proceedings on the basis of settlement arrived at between the parties even in the cases of non-compoundable offences but while exercising its jurisdiction this Court must consider the fact that whether the proceeding relates to any serious and heinous offences and whether the crime in question has impact over the society. In cases of serious nature which affects the society at large this Court should not exercise its jurisdiction under Section 482 Cr.P.C. for quashing the proceedings on the basis of compromise executed between the parties. (See decisions in **Gian Singh v. State of Punjab and Another** reported in [(2012) 10 SCC 303], **Narinder Singh and Others v. State of Punjab and Another** reported in [(2014) 9 SCC 466], **Shimbhu v. State of Haryana** reported in [AIR 2014 Supreme Court 739](three Bench), **State of Madhya Pradesh v. Madanlal** reported in [AIR 2015 Supreme Court 3003] (two Bench), **Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai**



Karmur and Others v. State of Gujarat and Another reported in [(2017) 9 SCC 641], **State of Madhya Pradesh v. Laxmi Narayan & Ors.** reported in [(2019) 5 SCC 688], **Arun Singh and Others v. State of Uttar Pradesh Through its Secretary and Another** reported in [(2020) (3) SCC 736], **Ram Gopal & Another v. State of Madhya Pradesh** reported in [(2021) 0 Supreme (SC) 529], **Daxaben v. The State of Gujarat & others** reported in [2022 LiveLaw (SC) 642], **P.Dharmraj v. Shanmugam and others** decided on 8th September 2022 in Crl.Appeal Nos.1515-1516 of 2022).

7. Whether the relationship is consensual, is a matter to be decided during evidence and merely relying on the affidavit filed by the defacto complainant, this Court cannot quash the proceedings, holding that there are no materials, *prima facie*, to go for trial.

8. In this matter the specific case of the defacto complainant is that the defacto complainant while staying along



with her husband at their residence, the accused criminally trespassed into the residence of the defacto complainant and tied her hands. Thereafter he put cloth on the mouth of the defacto complainant and subjected her to rape despite her resistance. He had also taken nude photos of the defacto complainant.

9. Going by the prosecution allegations, serious offences under Section 450 read with 367(1) of IPC are well made out, *prima facie*. In such a case merely acting on the affidavit filed by the defacto complainant quashment of the proceedings could not be resorted to. In view of the matter, this petition fails and is accordingly dismissed.

10. Therefore, the quashment, as prayed for, stands disallowed, with liberty to the petitioner to raise his contentions before the trial court during trial.

In the result, this petition is dismissed.

Interim order shall stand vacated.



Registry is directed to forward a copy of this order to the trial court, for information and further steps.

Sd/-

(A. BADHARUDEEN, JUDGE)

rtr/