



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

WEDNESDAY, THE 20<sup>TH</sup> DAY OF SEPTEMBER 2023 / 29TH BHADRA, 1945

CRL.MC NO. 6437 OF 2023

SC NO.9/2022 OF FAST TRACK SPECIAL COURT II, MANJERI

CRIME NO.494/2021 OF KOTTAKKAL POLICE STATION, MALAPPURAM

PETITIONERS/ACCUSED & DEFACTO COMPLAINANT:

1 XXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXX

2 XXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXX

BY ADV U.K.DEVIDAS

RESPONDENT/COMPLAINANT:

STATE OF KERALA

REPRESENTED BY PUBLIC PROSECUTOR,

HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031

SRI. NOUSHAD K A (SR.PUBLIC PROSECUTOR)

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON  
20.09.2023, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**ORDER**

*Dated this the 20<sup>th</sup> day of September, 2023*

The first petitioner is the accused in Crime No.494 of 2021 of Kottakkal Police Station, Malappuram, which is now pending as S.C.No.9 of 2022 on the file of the Fast Track Special Court-II, Manjeri, alleging commission offences punishable under Sections 376(1), 342, 448 and 201 of the Indian Penal Code and Sections 5, 5j(ii) and 6 of the Protection of Children from Sexual Offences Act. The second petitioner is the alleged victim of the above crime.

2. The prosecution allegation is that the first petitioner trespassed into the house of the second petitioner on 08.02.2021 and committed rape on the second petitioner, following which she was impregnated and delivered a male child on 20.10.2021.

3. The learned counsel appearing for the petitioners would submit that the second petitioner attained the age of majority on 06.02.2022. It is submitted that the marriage



between the petitioners was solemnised on 10.02.2022 and they are living together as husband and wife along with their child. It is submitted that in such circumstances, jurisdiction of this Court under Section 482 CrI.P.C. can be invoked to quash the proceedings.

4. The learned Public Prosecutor confirms that the petitioners are married and are living together as husband and wife and that the second petitioner does not wish to continue with the proceedings against the first petitioner.

5. Having heard the learned counsel for the petitioners and the learned Public Prosecutor and having regard to the peculiar facts and circumstances of the case, I am of the view that the proceedings against the first petitioner in S.C.No.09 of 2022 on the files of the Fast Track Special Court-II, Manjeri, can be quashed as no useful purpose would be served by continuing the proceedings. In ***Vishnu v. State of Kerala [2023(4) KHC 1]***, this Court held :

*"19. There is yet another category of cases where though the victim alleged that the sexual assault or rape was forceful or against her will, later, they settled the dispute, got married and led a peaceful life. In most of those cases, the victim admits that the*



*allegation of rape was levelled only because the accused refused to marry her. Allowing prosecution to continue in those cases would only result in the disturbance of their happy family life. On the contrary, the closure of such a case would promote their family life. In such cases, the ends of justice demand that the parties be allowed to compromise. However, the Court must ensure that the marriage is not a camouflage to escape punishment and the consent given by the victim for compromise was voluntary. The Court must also be satisfied after considering all the facts and circumstances of the case that quashing the proceedings would promote justice for the victim and the continuation of the proceedings would cause injustice to her."*

Here also the marriage between the petitioners was solemnised on 10.02.2022. They are living together with their child. Continuation of proceedings would only cause injustice to the second petitioner.

Accordingly, the CrI.M.C. is allowed and all further proceedings against the first petitioner in S.C.No.09 of 2022 on the files of Fast Track Special Court-II, Manjeri, will stand quashed.

Sd/-

**GOPINATH P.  
JUDGE**



**APPENDIX**

PETITIONERS' DOCUMENTS:

ANNEXURE I : COPY OF THE FIR WITH FIS IN CRIME  
NO.494/2021 OF KOTTAKKAL POLICE STATION  
DATED 24.10.2021

ANNEXURE II : COPY OF THE RELEVANT PAGE OF FINAL REPORT  
IN CRIME NO.494/2021 OF KOTTAKKAL POLICE  
STATION DATED 23.12.2021

ANNEXURE III: COPY OF THE MEMORANDUM OF EVIDENCES IN  
CRIME NO.494/2021 OF KOTTAKKAL POLICE  
STATION DATED 23.12.2021

ANNEXURE IV : COPY OF THE MARRIAGE CERTIFICATE DATED  
3.3.2022 BY THE PETITIONERS.

ANNEXURE V : ORIGINAL OF THE AFFIDAVIT OF THE DEFACTO  
COMPLAINANT DATED 1.8.2023.