



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. 3250 OF 2022

CRIME NO.597/2020 OF Kambalakkad Police Station, Wayanad

SC NO.99 OF 2021 OF SESSIONS COURT, KALPETTA

PETITIONER/ACCUSED:

FR. BABU VARGHESE

AGED 38 YEARS

S/O VARGHESE POOKOOTIL VEEDU, THAZHAMUNDA P O,
KENICHIRA, POOTHADI AMSOM, WAYANAD DISTRICT -,
PIN - 673596

BY ADVS.

S.RAJEEV

V.VINAY

M.S.ANEER

SARATH K.P.

RESPONDENTS/STATE/DEFACTO COMPLAINANT:

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

2 XX

BY ADVS.

PUBLIC PROSECUTOR

ANAND KALYANAKRISHNAN

SENIOR PUBLIC PROSECUTOR SRI RENJIT GEORGE

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.

=====
Crl.M.C No.3250 of 2022-E
=====

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 S.C.No.99/2021 on the files of Sessions Court, Kalpetta, arose out of Crime No.597 of 2020 of Kambalakkad Police Station, Wayanad, seeking to quash all proceedings in the above case.

2. Heard the learned counsel for the petitioner and the learned Public Prosecutor. Perused the relevant documents.

3. In this matter, the prosecution alleges commission of offences punishable under Sections 450 and 376(1) of the Indian Penal Code. The specific allegation is that the accused herein, who is a Priest, subjected the defacto complainant at her



rental quarters on the premise of settling the family disputes in between the defacto complainant and her husband. The specific allegation is that, the accused, who intervened in the family disputes to settle the same, made the husband of the defacto complainant more distant from the defacto complainant and thereafter at 13.45 hours on 08.05.2020 he subjected the defacto complainant to sexual intercourse after trespassing upon the rental quarters, despite her resistance.

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 Annexures produced by the petitioner without proof of the same, this Court cannot quash the proceedings, holding that there are no materials, *prima facie*, to go for trial.



8. Coming to the facts of this case, the same is to the effect that the defacto complainant, who was married and having 2 children, had some issues with her husband and the accused herein, a priest, intervened in the said dispute with offer to settle the same. But the accused made the husband of the defacto complainant more distant from her and making use of the said opportunity, at about 11.45 hours on 08.05.2020 he reached the renal quarters of the defacto complainant. The defacto complainant requested the accused to go without worsening the scenario. Though he left for the time being, he reached again at 1.45 hours and he entered into the quarters and made a comment that “he wanted her”. Though she resisted, she was subjected to forceful sexual intercourse after removing her dress. Later the defacto complainant understood that the accused intervened in the dispute so as to have sexual intercourse with the defacto complainant to satisfy his lust and his interference made the relationship between the defacto



complainant and her husband more worse.

9. Going by the prosecution allegations the offence under Sections 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.

11. In the result, this petition is dismissed.

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

Sd/-

(A. BADHARUDEEN, JUDGE)

rtr/