



2024:KER:82543

CRL.MC No. 8810 of 2024

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

WEDNESDAY, THE 6TH DAY OF NOVEMBER 2024/15TH KARTHIKA, 1946

CRL.MC NO. 8810 OF 2024

CRIME NO.82/2023 OF VANITHA POLICE STATION KANNUR, KANNUR IN
SC NO.836 OF 2023 OF ADDITIONAL DISTRICT COURT & I
ADDITIONAL MOTOR ACCIDENT CLAIMS TRIBUNAL, THALASSERY

PETITIONER/ACCUSED:

SAFWAN P.N. ,
AGED 35 YEARS, S/O. KHALID,
THANGALAVALAPPIL HOUSE,
DARUL ISSA, KUNIYIL PEEDIKA,
KAKKAD P.O., KANNUR DISTRICT, PIN-670005

BY ADV.K.ABOOBACKER SIDHEEQUE

RESPONDENTS/STATE & DEFACTO COMPLAINANT:

- 1 STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM DISTRICT, PIN-682031
 - 2 XXXX
XXXXXX, PIN-670005
- R1 SRI.RENJIT GEORGE, SENIOR PUBLIC PROSECUTOR
R2 ADV.R.MAHESH VARMA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 23.09.2024, THE COURT ON 06.11.2024 PASSED THE FOLLOWING:



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ORDER

Dated this the 6th day of November, 2024

This Crl.M.C. has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 by the accused in Crime No.82/2023 of Vanitha Police Station, Kannur, now pending as S.C.No.836/2023 on the files of the Additional Sessions Court-I, Thalassery and the prayer is as under;

This Honourable Court may be pleased to call for the records and to quash all the proceedings in S.C.No.836 of 2023 on the files of Additional District & Sessions Court-I, Thalassery as against the petitioner.

2. Here the prosecution alleges commission of offences punishable under Sections 363, 354A(1)(i) of the Indian Penal Code (for short "IPC' hereinafter) as well as Sections 7 and 8 of Protection of Children from Sexual Offences Act (for short 'POCSO Act' hereinafter).



3. Heard the learned counsel for the petitioner, the learned counsel appearing for the victim and the learned Public Prosecutor in detail. Perused the relevant records.

4. The prosecution allegation is that the accused herein kidnapped the minor girl victim aged 17 years studying in Plus Two Course in his car bearing registration No. KL-13/AB-8934 with intention to subject her to sexual molestation. Thereafter, he hugged and kissed her, and thereby committed the above offences.

5. The learned counsel for the petitioner would submit that the allegations against the petitioner are false and the petitioner is innocent. He also would submit that now the matter has been settled and the victim filed affidavit dated 08.08.2024 produced as Annexure A2, conceding settlement. Therefore, the matter is liable to be quashed.

6. Although the learned counsel for the victim supported the quashment on the ground of settlement, the



learned Public Prosecutor strongly opposed quashment of the proceedings merely on the ground of settlement on the submission that serious offences under the POCSO Act cannot be quashed merely acting on the affidavit and therefore, the quashment cannot be allowed arresting the right of the prosecution to go for trial.

7. I have gone through the FIS in this case. As per the FIS given by the victim, it is stated that the accused made acquaintance with the victim through Instagram and in continuation of the same, the accused informed that he was returning to Gulf on 20th September and thus invited the accused to reach near Hospital Bus Stand, Kannur through Instagram. Thereafter, the victim refused to reach there, the accused forced her. Accordingly, at about 7.30 hours on 19.09.2023, she was taken by the accused in his car bearing registration No.KL-13/AB-8934 and thereafter, subjected her to hugging and kissing, despite her resistance. Later, she was taken to a mall and while



she was at the Mall, it was informed by the friend of the accused that the mother of the victim was hospitalised on noticing her absence, surmounted with this occurrence.

8. Going by the allegations, offences under Sections 7 read with 8 of the POCSO Act could be gathered prima facie, apart from the offences under Sections 363, 354A(1)(i) of IPC.

9. Having considered the factual matrix of this case, merely acting on the affidavit filed by the victim, even though now she has attained majority, serious offences under the POCSO Act cannot be settled.

10. In view of the matter, the quashment sought for is liable to fail and is accordingly dismissed.

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

Sd/-
A. BADHARUDEEN
JUDGE



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APPENDIX OF CRL.MC 8810/2024

PETITIONER'S ANNEXURES

- Annexure A1** A CERTIFIED COPY OF THE FINAL REPORT
DATED 20.10.2023 IN CRIME NO.82 OF 2023
OF KANNUR VANITHA POLICE STATION, KANNUR
DISTRICT.
- Annexure A2** ORIGINAL OF THE AFFIDAVIT SWORN INTO BY
THE SECOND RESPONDENT SIGNED DATED
08.08.2024.