



2023:KER:77272

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

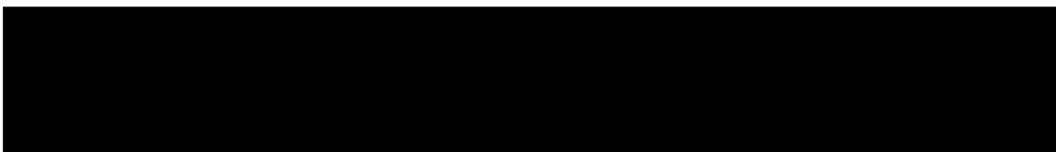
TUESDAY, THE 5TH DAY OF DECEMBER 2023 / 14TH AGRAHAYANA, 1945

CRL.MC NO. 1969 OF 2022

CRIME NO.0264/2022 OF Nadakkavu Police Station, Kozhikode

PETITIONER/ACCUSED:

ADARSH THINKAL T.S



BY ADV S.NIKHIL SANKAR

RESPONDENT/STATE AND VICTIM:

- 1 STATE OF KERALA
HIGH COURT OF KERALA, PIN - 682031
- 2 XXXXXXXXXXXX
XXXXXXXXXXXX XXXXXXXXXXXX
BY ADVS.
SRI. NOUSHAD K.A, SR. PUBLIC PROSECUTOR
SRI. MANSOOR.B.H.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
05.12.2023, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:



ORDER

Petitioner is the accused in Crime No.264/2022 of Nadakkavu Police Station, Kozhikode District, alleging commission of offences under Sections 376(2)(n) and 506 of the Indian Penal Code and Section 119(b) of the Kerala Police Act.

2. Allegation against the petitioner is that, on the false pretext of marriage, the petitioner had compelled the *de facto* complainant/victim (who is a woman aged 23 and a graduate) to a hotel room on 19.01.2021 and had sexual intercourse with her and thereby, he committed the offences alleged against him.

3. Learned counsel appearing for the petitioner would submit that, any relationship between the petitioner and the victim was purely consensual. It is submitted that a complaint came to be filed only on account of the misunderstanding of the *de facto* complainant that the petitioner would not marry her. It is submitted that the marriage between the petitioner and the *de facto* complainant was solemnised on 25.02.2023. Reference is made in this regard to Annexure4 marriage certificate produced along with CrI.M.A. No.1/2023. It is submitted that a reference to Annexure 4 marriage certificate



will show that the marriage between the petitioner and the *de facto* complainant/victim was solemnised on 25.02.2023 under the provisions of the Special Marriage Act before the Marriage Officer, Pulppally.

4. Learned Public Prosecutor also confirms that a marriage between the petitioner and the *de facto* complainant/victim was solemnised on 25.02.2023.

5. Taking into consideration the submissions made by the learned counsel for the petitioner and the learned Public Prosecutor and having regard to the contents of Annexure 4 marriage certificate, I am of the view that the petitioner is entitled to succeed. The offences alleged against the petitioner cannot sustain in the light of the fact that the petitioner has now married to the *de facto* complainant/victim.

Accordingly, this Crl.M.C. is allowed and all further proceedings in Crime No.264/2022 of Nadakkavu Police Station, Kozhikode District will stand quashed as against the petitioner.

Sd/-

GOPINATH P.

JUDGE



APPENDIX

Annexure1 - True copy of the F.I.R in Crime No:0264/2022 of Nadakkavu Police Station,Kozhikode District

Annexure2 - True copy of the Marriage certificate of the Petitioner with the 2nd respondent(de facto complainant) at Kureekaatil Sree Krishna Temple,Pulpally, Wayanad District dated 18/03/2022

Annexure3 - Affidavit duly signed and notarized evidencing settlement of disputes between petitioner and 2nd respondent(de facto complainant) dated 18/03/2022

ANNEXURE 4 - True copy of the marriage certificate of the applicant with the 2nd respondent issued by Marriage Officer, Pulppally dated 25/02/2023