

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

THURSDAY, THE 28TH DAY OF FEBRUARY 2013/9TH PHALGUNA 1934

Crl.MC.No. 630 of 2010

F.I.R. 59/2010 OF KALPAKANCHERRY POLICE STATION,
MALAPPURAM DISTRICT.

PETITIONER/ACCUSED:

P.MURALEEDHARAN, S/O. BALAKRISHNAN,
AGED 44 YEARS, PONNIL HOUSE, KALADI.P.O.
EDAPPAL, MALAPPURAM DISTRICT.

BY ADV. SRI.MILLU DANDAPANI

RESPONDENTS/STATE & DEFACTO COMPLAINANT:

1. STATE OF KERALA, (CRIME NO.59/2010
OF KALPAKANCHERRY POLICE STATION OF MALAPPURAM
DISTRICT) REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

2. SANDHYA DEVI, AGED 28, D/O. KOMAN,
KANAKKAYIL PARAMBIL HOUSE, KARINGAMKUZHI.P.O.
KADAMPUZHA, THIRUR TALUK.

BY PUBLIC PROSECUTOR SRI. ROY THOMAS FOR R1.
BY ADV. SRI.JAMSHEED HAFIZ FOR R2.

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
28-02-2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

A P P E N D I X

ANNEXURES:

- ANNEXURE-A : COPY OF F.I.R. 59/2010 ON THE FILE OF
KALPAKANCHERRY POLICE STATION, MALAPPURAM.
- ANNEXURE-B : COPY OF F.I.R. 37/2010 OF KALPAKANCHERRY
POLICE STATION, MALAPPURAM.
- ANNEXURE-C : COPY OF COMPLAINT SUBMITTED BY R2 BEFORE
DY.S.P, TIRUR.
- ANNEXURE-D : AGREEMENT EXECUTED BETWEEN THE PETITIONER
AND 2ND RESPONDENT.

// True Copy //

P.A. to Judge.

smp

P.BHAVADASAN, J.

Crl.M.C.No.630 OF 2010

Dated this the 28th day of February, 2013.

O R D E R

This Crl.M.C is filed under Section 482 of the Code of Criminal Procedure seeking to have Annexure-A First Information Report quashed.

2. The petitioner is the accused of having committed the offence punishable under Section 376 of Indian Penal Code and Section 3(1)(xi) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The allegation against the petitioner is that presenting himself as an unmarried person, the petitioner fell in love with the victim and the victim happened to marry him and later on they fell apart and on enquiries it became known that he was already married and that has resulted in filing of a complaint.

3. The de facto complaint, who has been arrayed as 2nd respondent, is represented by a counsel. Annexure D produced in the Crl.M.C is an agreement entered into between the de facto

complainant and the accused. From the said agreement, it is discernible that they have settled their differences and it is stated therein that the de facto complainant has no further grievance in the matter. She has agreed by the agreement to withdraw the complaint against the petitioner and not to proceed with the case further. The agreement is dated 23.06.2010.

4. Going by the decision of the Apex Court in **Gian Singh vs. State of Punjab and another** [(2012) 10 Supreme Court Cases 303), since an offence under Section 376 IPC is alleged, it will not be possible strictly to quash the proceedings. But one has to see whether the allegations in the complaint make out an offence under Section 376 IPC and if only on prima facie an offence under Section 376 IPC is discernible from the allegations, then only the question of complying the principles laid down in the decision referred to above will arise.

5. In the case on hand, even as admitted by the complainant, she has fallen in love with the accused and married him and also had physical contact with him voluntarily and only when they fell apart, she came forward with a complaint. She

only says that she was made to believe that he is an unmarried person. She does not say that she was under any misconception at the time of having physical contact. The victim was aged 28 years at the relevant time. That means, she was capable of making her own decision. It is difficult to see how an offence under Section 376 IPC can be alleged against the accused.

For the above reasons, the CrI.M.C is allowed and Annexure A-First Information Report stands quashed. All further proceedings shall stand dropped.

**P.BHAVADASAN
JUDGE**

smp