



2025:KER:79851

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE C.PRATHEEP KUMAR

SATURDAY, THE 25TH DAY OF OCTOBER 2025 / 3RD KARTHIKA, 1947

CRL.MC NO. 4690 OF 2022

CRIME NO.473/2021 OF Thadiyittaparamba Police Station,

Ernakulam

SC NO.6 OF 2022 OF FAST TRACK SPECIAL COURT ,

PERUMBAVOOR

PETITIONER/ACCUSED

XXXXXXXXXXXX
XXXXXXXXXXXX XXXXXXXXXXXX

BY ADVS.
SRI.P.M.ZIRAJ
SHRI.IRFAN ZIRAJ

RESPONDENTS/COMPLAINANT

- 1 STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR,
HONOURABLE HIGH COURT OF KERALA, ERNAKULAM, PIN -
682031
- 2 THE INSPECTOR OF POLICE, THADIYITTAPARAMBU POLICE
STATION, ERNAKULAM DISTRICT, PIN - 683105
- 3 XXXXXXXXXXXX
XXXXXXXXXXXX XXXXXXXXXXXX

PP-SRI.U.JAYAKRISHNAN

THIS CRIMINAL MISC. CASE HAVING COME UP FOR HEARING ON
17.10.2025, THE COURT ON 25.10.2025 PASSED THE FOLLOWING:



ORDER

Dated : 25th October, 2025

This is a petition filed by the accused in SC. No. 6 of 2022 on the file of Fast Track Special Court, Perumbavoor, arising out of Crime No. 473 of 2021 of Thadiyittaparambu Police Station.

2. The prosecution case is that the accused, with the intention to satisfy his sexual lust, took the defacto complainant, a 17-year-old girl, in his motorcycle from near her residence on 10.08.2013 at about 01.00 a.m. and when they reached the vacant land of one Mathew M. Patrose and his wife Lissy Matthew, which is situated by the side of Attupadi - Chiravakkad road, he committed rape upon her and thereby he alleged to have committed the offences punishable under Section 363, 366, 370, 354A(1), 376(1) IPC and Sections 4 r/w 3(a) and Section 8 r/w Section 7 of Protection of Children from Sexual Offences Act (PoCSO).

3. According to the petitioner, this is a false case foisted against him by his wife, as all her previous attempts failed to achieve the fruitful result, only for harassing him. According to the petitioner, even if the entire allegations levelled against him is accepted as true in its face value, the same will not amount to the offences alleged against him in the final report. Therefore, he prayed for quashing the entire proceedings against him.



4. The application was strongly opposed by the learned Public Prosecutor.

5. Now the point that arises for consideration is the following:

Whether the final report against the petitioner is liable to be quashed, in the light of the grounds raised in the OP ?

6. Heard P.M. Ziraj, the learned counsel for the petitioner and Sri.U,Jayakrishnan, the learned Public Prosecutor.

7. The points: It is interesting to note that the de facto complainant is none other than the divorced wife of the petitioner. The accused married the defacto complainant on 08.03.2020. Admittedly on 12.03.2021 the petitioner divorced her by pronouncing talaq. Within the above short span of the marital relationship between the petitioner and the defacto complainant, there were several litigation between them. The first one was Crime No. 729 of 2020 of Thadiyittaparambu Police Station alleging offence punishable under Section 498A against the petitioner and his parents. Due to the intervention of mediators, they resumed cohabitation in a rented building. Even thereafter, they could not continue their cohabitation for long and at the instance of the defacto complainant, another crime was registered as Crime No. 466 of 2020 of Ambalamedu police station against the petitioner again under Section 498A IPC. In the meantime, Annexure-



12 proceeding under the Protection of Women from Domestic Violence Act was also filed by her against the petitioner, his parents and brother, alleging domestic violence. Thereafter, As per Annexure No. 13 award, all the pending disputes were settled amicably and both the above crimes were quashed by this Court and they again resumed cohabitation. However, again they continued to live only for a further period of 10 days and thereafter they started living separately. Finally on 12.03.2021 the petitioner divorced the defacto complainant by pronouncing talaq.

8. The above crime was registered on the basis of a private complaint, which was sent by the learned Magistrate to the SHO under Section 156(3) Cr.P.C. Though the complaint is dated 01.06.2021, it is seen filed before the learned Magistrates only on 05.07.2021. In the complaint filed in the year 2021, the allegation is that the petitioner was a senior student in the school wherein the defacto complainant was studying. According to her, while she was studying in the 7th standard, at the age of 14, the petitioner approached her, stating that he loved her and wanted to marry her. According to her, on 10.08.2013 while she was 16 years, the accused took her in his motorcycle to a vacant bushy land near his residence and asked her to remove her dress. When she objected and tried to run away, he insisted that if she really loves him, she will obey him. Thereafter, he forcefully removed her dress and committed rape upon her. Thereafter, on another day he took her to the terrace of Kallan shopping complex, Pookattupadi and pressed her



breasts, buttocks and hugged her. On 31.02.2014, he again took her to the above terrace, pressed her breasts and compelled her to hold his penis. At that time, CW1 came at the terrace for some other purpose and saw them and warned them not to repeat such acts. As per the complaint, thereafter the accused took her to various places, like a room in his office in Oyo, Munnar, Adimaly, and several places on several occasions and on those occasions also they had sexual intercourse with each other. According to her, she did not complain to anybody, as the accused had sexual intercourse with her, after promising to marry her. It is also alleged that the accused received a sum of Rs. 6,00,000/- from the de facto complainant and out of which only part of the amount was repaid and a balance amount of Rs. 2,65,000/- is still due from the petitioner.

9. As per the complaint, at the age of 23, only when her parents started discussing about her marriage, she disclosed to them about her relation with the petitioner. At that time, her parents contacted the parents of the accused, but they refused the proposal on the ground that she belonged to a poor family. Since the accused refused to marry her as promised, she had given a complaint to Thadiyittaparambu police station, wherein they advised both parties to marry each other and accordingly the petitioner married her on 08.03.2020. The allegation in the complaint is that the petitioner married her only to escape from the prosecution for sexual harassment raised by her. The learned counsel for the petitioner argued



that such an allegation was never raised in the earlier rounds of litigation between the parties. It is true that in Crime No. 729 of 2020 of Thadiyittaparambu police station and Crime No. 466 of 2020 of Ambalamedu police station, the allegations were only under Section 498A IPC. In the meantime, Annexure-12, proceeding under the Protection of Women from Domestic Violence Act, 2005 was also filed by the defacto complainant against the petitioner, his parents and brother, alleging domestic violence. All those cases were settled when the parties decided to receive/resume co-habitation in January 2021, as per Annexure A13, Award of Lok Adalath. It is thereafter in on 05.07.2021, the present complaint is seen filed by the defacto complainant.

10. As argued by the learned counsel for the petitioner, there is an inordinate delay of about 8 years in reporting the matter to the police. There is absolutely no reliable explanation for the above delay. The specific case of the defacto complainant is that, the accused had sexual intercourse with her after promising to marry her. Even as per the above case of the defacto complainant, the accused married her and they lived together as husband and wife, though only for a short period. Thereafter, the marriage between them was dissolved by the petitioner by pronouncing talaq.

11. In the complaint filed after a delay of 8 years, it is alleged that the petitioner and the defacto complainant went to several places on several days and



had sexual intercourse with each other. As per the allegation, the relation started while she was 16 and it continued frequently, even after she attained majority. Only two dates were specifically mentioned in the complaint, which are 10.08.2013 and 30.01.2014. According to the petitioner, the incident on 30.01.2014 was at the terrace of Kallan shopping complex, Pookattupadi and on that day they were caught red handed by CW1. However, when the 164 Cr.P.C statement of CW1 was recorded by the learned Magistrate, he denied having seen any such incident. Moreover, during investigation it is revealed that on 30.01.2014, the accused was present in the school in which he was studying, till 04.00 p.m. and therefore, it is proved that the above allegation raised in the complaint was false. In other words, the allegation in the complaint that on 30.01.2014 the accused took her to the terrace of the building and sexually abused her, was found to be false.

12. The only other date is 10.08.2013 and the place of occurrence alleged on that day is in an open land. As per the complaint, even after she attained majority, she accompanied the petitioner to several places including lodges and tourist places and had sexual intercourse with each other. It is also revealed that she had not informed about her relation to her parents till she attained the age of 23 and that too only when her parents discussed about her marriage. According to her, only thereafter her parents came to know about her relationship with the petitioner and when they contacted the parents of the accused, they refused the proposal as she



belonged to a poor family. Even then in the complaint, the parents of the petitioner were also made as accused no. 2 and 3, alleging that they failed to report the incident to the police. In fact, they came to know about the alleged incident only from the parents of the defacto complainant and as such there was absolutely no justification for prosecuting the parents of the petitioner, and the Investigating Officer rightly deleted them from the party array.

13. Since the alleged incident that occurred was in the year 2013 and 2014 and the complaint was raised only in 2021, there is absolutely no medical evidence in this case to substantiate the prosecution case. As I have already noted above, the delay of more than 8 years in reporting the matter to the police is not explained. Though two dates alone were specified in the complaint, on one of the dates on which the accused allegedly committed rape on her, the petitioner was attending his classes at the school. In this case, there is absolutely no other evidence including medical evidence to prove the charges levelled against the petitioner. Since it is found that alleged incident on 30.1.2024 did not happen, in the absence of any independent evidence as well as medical evidence and the absence of explanation for the delay, no purpose will be served in proceeding further against the petitioner. The present complaint, filed after the disposal of the two crimes as well as the petition filed under the DV Act and after the defacto complainant was divorced by her husband, is absolutely unreliable and it can be treated only as an



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afterthought to wreak vengeance against the petitioner. In the above circumstances, continuance of this case against the petitioner will be an abuse of the process of the court and as such it is liable to be quashed. Point answered accordingly.

In the above circumstances, CrI.M.C is allowed and all further proceedings in S.C. No. 6 of 2022 arising out of Crime No. 473 of 2021 of Thadiyittaparambu police station is quashed.

Sd/- C.Pratheep Kumar, Judge

Mrcs/21.10.25.