

Sangeeth Louis Vs State Of Kerala

Court: High Court Of Kerala

Date of Decision: Jan. 27, 2025

Acts Referred: Code of Criminal Procedure, 1973 " Section 164, 227
Indian Penal Code, 1860 " Section 294(b), 307, 376, 384

Hon'ble Judges: C. Jayachandran, J

Bench: Single Bench

Advocate: S.Jayant, Abhiremya Raj R B, E.C.Bineesh

Final Decision: Dismissed

Judgement

C. Jayachandran, J

1. The petitioner is the sole accused in S.C. No.509/2024 pending before the Fast Track Special Court-II, Thrissur. This revision is directed against

Annexure-A1 Order, which dismissed the petitioner's application (C.M.P. No.272/2024) under Section 227 Cr.P.C. seeking discharge.

2. Heard the learned Counsel for the petitioner and the learned Public Prosecutor. Perused the records.

3. Learned Counsel for the petitioner submits that Annexure-A5 F.I.S. was given on 09.08.2022 alleging an instance of rape on 20.07.2022. It was

pointed out that initially Annexure-A4 F.I.R. was registered in respect of offences under Sections 384, 376, 307 and 294(b) of the Penal Code.

However, after investigation, the final report was filed only with respect to the offence under Section 376. Learned Counsel would submit that there

are serious contradictions between the statement of the victim as given in the F.I.S, as also, in her statements recorded under Section 164 Cr.P.C.,

which was done twice on 10.08.2022 and 08.02.2023. The said statements under Section 164 Cr.P.C are produced as Annexure-A2 and Annexure-

A3. Learned Counsel would elaborate that in Annexure-A5 F.I.S., it was stated that, on 20.07.2022, when the victim reached the office of the

accused, who is a lawyer, there were two staff members and that the lawyer required the said staffs to get out of the room and then committed rape.

However, in Annexure-A2 statement under Section 164 Cr.P.C., the witnesses does not refer to the presence of any staff at the office of the

petitioner/accused on 20.07.2022. Secondly, it was pointed out that, in Annexure-A5 F.I.S, there is an allegation to the effect that the petitioner was

administered poison by the lawyer, when she reached the office to get back her gold ornaments. However, in Annexure-A3 statement under Section

164 Cr.P.C., the version is that the poison was administered not by the lawyer, but by another staff. It is the further contention of the learned Counsel

that the medico legal examination conducted on the victim would not indicate any rape, whatsoever. On such premise, the petitioner seeks discharge

under Section 227 Cr.P.C.

4. Per contra, this application was seriously opposed by the learned Public Prosecutor.

5. Having heard the learned Counsel appearing for the respective parties, this Court is not inclined to allow this Criminal Revision Petition. Primarily,

this Court is of the opinion that the petitioner is thoroughly misconceived in his submission based on the contradictions. Contradiction assumes

significance only when evidence is tendered before the Court and the version spoken to by the witness before the Court is in variation from her former

statement. The discrepancy or the inconsistency, if any, between two former statements cannot be construed as contradiction in law, so as to eschew

the prosecution version and to discharge the accused. The discrepancy/inconsistency between the versions of the petitioners is a matter for the trial

court to consider, based upon the evidence to be tendered before the Court by the witnesses concerned. At any rate, the same cannot afford adequate

ground to seek discharge under Section 227 Cr.P.C. As regards the allegation that the medico legal examination has not indicated any rape, no

material has been produced before this Court in substantiation of the same. Having perused the impugned Order, this Court finds no illegality or

irregularity, so as to warrant interference by this Court.

The Criminal Revision Petition fails and the same will stand dismissed.