



Crl.Rev.Pet. No.624 of 2023

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2025:KER:36693

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

MONDAY, THE 26TH DAY OF MAY 2025 / 5TH JYAISHTA, 1947

CRL.REV.PET NO. 624 OF 2023

CRIME NO.309/2021 OF Ernakulam Town South Police Station,
Ernakulam

AGAINST THE ORDER/JUDGMENT DATED 12.05.2023 IN CC NO.905
OF 2021 OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE (E&O) ,
ERNAKULAM

REVISION PETITIONER/ACCUSED:

ABJIJITH. M
AGED 38 YEARS
S/O. BALAKRISHNAN, SARANYA MUNAYATH HOUSE,
THAYANERI, PAYYANNUR, THALIPARAMBU, NOW RESIDING
AT CLEARWAY APARTMENT, SREEKANDATH ROAD,
ERNAKULAM, PIN - 682016

BY ADVS.
K.K.DHEERENDRAKRISHNAN
M. PROMODH KUMAR
N.P.ASHA

RESPONDENT/STATE:



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STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, PIN - 682031

BY ADV.
SMT. SEETHA.S, SR.PP

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR
ADMISSION ON 26.05.2025, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:



CR

P.V.KUNHIKRISHNAN, J

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Dated this the 26th day of May, 2025

ORDER

Nowadays, it is a trend to send threatening messages and use derogatory statements against constitutional authorities, including the Prime Minister, Chief Ministers, Judges, etc., in social media and other forums to get publicity. The police force will be forced to spend their valuable time to find out whether it is for publicity or with a specific motive. After making such statements, the accused will approach the court of law with a petition stating that no offence is made out or raising technical grounds to escape from the prosecution. The question to be decided in this case is whether, in such cases, the accused should face trial or the court should exercise its discretionary



jurisdiction to prematurely terminate such cases.

2. The election result of the Kerala State Legislative Assembly was declared on 02.05.2021, and the Left Democratic Front, led by the then Chief Minister, obtained about 99 seats to form a new government. On 02.05.2021 at 20:22 hours and 22:13 hours, a message came to the Additional Private Secretary to the Chief Minister, Sri. Pinarayi Vijayan from a Mobile number 9074656746 stating that "I will kill Pinarayi Vijayan". The Additional Private Secretary to the Hon'ble Chief Minister informed the same to Director General of Police. The Director General of Police issued directions to take legal action immediately. Accordingly, Crime No. 309/2021 was registered by the Ernakulam Town South Police Station against the petitioner alleging offences punishable under Sections 153 & 506(i) of the Indian Penal Code, 1860 (for short 'IPC') and also under Section 120(o) of the Kerala Police Act, 2011 (for short 'KP Act'). After investigation, a final report is filed arraigning the



petitioner as the accused. Annexure-I is the final report. The petitioner appeared before the trial court and filed an application under Section 258 of the Criminal Procedure Code, 1973 (for short 'Cr.P.C.') to stop the proceedings. The Additional Chief Judicial Magistrate (Economic Offences), Ernakulam dismissed that petition as per order dated 12.05.2023 in C.M.P. No.2091/2023 in C.C. No.905/2021. Aggrieved by the same, this Revision Petition is filed.

3. Heard the learned counsel appearing for the petitioner and the learned Public Prosecutor.

4. Counsel for the petitioner submitted that, even if the entire allegations in the final report are accepted, no offences under Sections 153 & 506(i) IPC are attracted. The counsel also submitted that the ingredients of Section 120(o) of the KP Act are also not attracted. It is also contended by the counsel for the petitioner that the only cognizable offence in the final report is under Section 153 IPC. Even if the entire allegations



are accepted, the offence under Section 153 IPC is not attracted. In such circumstances, the registration of the case without orders from the Magistrate under Section 153 Cr.P.C. itself is a reason to quash the proceedings. The counsel also submitted that the person who received the alleged SMS from the petitioner is the Additional Private Secretary to the Hon'ble Chief Minister. Counsel for the petitioner also submitted that his statement was not recorded. Yet another contention raised by the petitioner is that the Ernakulam Town South Police has no territorial jurisdiction to register the FIR because the SMS was received at Thiruvananthapuram.

5. The Senior Public Prosecutor, Smt. Seetha S., refuted the contentions of the counsel for the petitioner. The Public Prosecutor submitted that this is a serious case in which the petitioner sent an SMS to the Additional Private Secretary of the Hon'ble Chief Minister stating that he would kill the Chief Minister. The petitioner is not an illiterate person. He is an



employee in a bank. In such circumstances, this Court may not quash the proceedings in this case.

6. This Court considered the contentions of the petitioner and the Public Prosecutor. The impugned order is an order passed under Section 258 Cr.P.C. Section 258 Cr.P.C. reads like this:

"258. Power to stop proceedings in certain cases.

- In any summons-case instituted otherwise than upon complaint, a Magistrate of the first class or, with the previous sanction of the Chief Judicial Magistrate, any other Judicial Magistrate, may, for reasons to be recorded by him, stop the proceedings at any stage without pronouncing any judgment and where such stoppage of proceedings is made after the evidence of the principal witnesses has been recorded, pronounce a judgment of acquittal, and in any other case, release the accused, and such release shall have the effect of discharge."

7. As per Section 258 Cr.P.C., the Magistrate may, for reasons to be recorded by him, stop the proceedings at any stage without pronouncing any judgment. This Court in **Neela**



Lohitha Dasan Nadar v. State of Kerala [2003 KHC 143]

considered the scope of Section 258 Cr.P.C. It will be better to extract the relevant portion of the above judgment:

“15. The language of S.258 Cr.P.C, is very wide and can cover any set of circumstances in which a Magistrate thinks that the proceedings in a summons case instituted otherwise than upon complaint, ought not to be continued. But the trend of judicial decisions on the scope of S.258 of the present Code as also of the analogous provision, viz., S.249 of the old code, would suggest that it is an enabling section and is one to be applied in very special circumstances. This Court has said so in Radhamany Amma v. Kunju Pillai (1980 KLT 393). Same view has been taken in Balakrishna Panicker v. Thevan (1987 (1) KLT 628) wherein it was held that S.258 Cr.P.C. is intended to be applied only in very special and compelling circumstances which make it difficult or impossible for the Magistrate to proceed in the usual way by taking evidence as provided in S.254 of the Code. Needless to say that the power under S.258 Cr.P.C, shall be exercised reasonably and judiciously. It should not be forgotten that the normal rule is that both parties do get the opportunity to adduce evidence and the court gives its verdict on the guilt or innocence of the accused based on the evidence in the case. The court may invoke S.258 Cr.P.C. in a case where the allegations against



the accused, even accepting them as true, do not constitute offence or on being satisfied that there exists serious defects in the prosecution case which go to the root of the matter, thereby rendering further proceedings rather impossible or futile. The power to stop the proceedings at any stage has to be sparingly used and that too in exceptional or unusual circumstances. No such exceptional or unusual circumstances exist in this case. The order passed by the learned Magistrate does not call for interference in revision. Criminal Revision Petition is accordingly dismissed.”

8. I am in perfect agreement with the above judgment. The powers under Section 258 Cr.P.C. need to be exercised by the Magistrate courts only in extraordinary situations. Compared to the procedure for trial of summons-cases by the Magistrate with the trial of warrant cases, a detailed procedure is prescribed for trial of warrant cases by the Magistrate. Chapter XIX of Cr.P.C. deals with the trial of warrant cases by the Magistrate. Sections 238 to 243 deal with the procedures to be adopted in cases instituted on a police report. Sections 244 to 250 deal with the procedure to be adopted in cases



instituted otherwise than on police reports. As far as summons-case is concerned, there is no charge framed. But, only the particulars of the offence are stated to the accused.

Therefore, when there is no charge, there is no question of discharge in the trial of summons cases by the Magistrate. But in an extraordinary situation, where the continuation of the prosecution amounts to an abuse of process of the court, the learned Magistrate can invoke the powers under Section 258 Cr.P.C. to stop the proceedings. There is no prohibition in filing an application by the accused to stop the proceedings under Section 258 Cr.P.C, narrating the reason to stop the proceedings. However, the Magistrate can invoke the powers under Section 258 Cr.P.C. only in extraordinary situations where absolutely no material is available against the accused. Moreover, the words used in Section 258 Cr.P.C are 'stop the proceedings' and therefore sufficient reasons are necessary to stop the proceedings to invoke Section 258 Cr.P.C.



9. Keeping in mind the above principle, this Court perused the final report. This Court also perused the statements given by the witnesses cited by the prosecution. A perusal of the same would show that a message is sent from the Mobile No. 9074656746 to the Additional Private Secretary to the Hon'ble Chief Minister of Kerala on 02.05.2021 at 20:22 hours and 22:13 hours. There are also statements to show that the Mobile No. 9074656746 was used by the petitioner at the relevant time. Admittedly, the petitioner is working as an employee of a bank, and he is not an illiterate person. In such circumstances, the petitioner should know the consequences of sending such a message, which is a threat to the life of a constitutional authority. Even if it is sent as a joke or because of the sad mood developed in a spur-of-the-moment, after the election results were published, the petitioner is expected to be aware of the consequences of the same, especially when he is not an illiterate person. The police machinery has to investigate



the matter, identify the mobile phone from which the SMS was sent, and determine its location at the relevant time. The bonafides of such messages are to be investigated. Then the police have to arrest the person, if necessary. Unnecessarily, the valuable time of the police force will be spoiled by such acts. Therefore, it is the duty of the police and the court to give a message to society about the consequences of such acts. Moreover, here the message alleged to be sent by the petitioner is serious, and the Additional Private Secretary of the Chief Minister cannot keep mum. Similarly, the police authority cannot neglect such messages. The message is to the effect that he will kill the Chief Minister. Therefore, he unnecessarily troubled not only the Additional Private Secretary of the Chief Minister but also the entire police force of the State. Therefore, I am of the considered opinion that such a person is not entitled to any discretionary relief from a court of law. He has to face trial before the court in accordance with the law. Therefore, the



learned Magistrate rightly rejected the petition filed by the petitioner under Section 258 Cr.P.C.

10. Counsel for the petitioner relied on the judgments of this Court in **Sanjeev S. v. State of Kerala** [2023 (3) KHC 324], **Ramesh v. Sub Inspector of Police, Thiruvambady Police Station and Another** [2021 (1) KHC 339] and **Manuel P.J.(Advocate) v. State of Kerala and Another** [2012 (4) KHC 710].

11. I am of the considered opinion that the above principles are not applicable to the present facts of the case. As far as in **Sanjeev's** case (supra), the allegation is that, when the former Home Minister of Kerala died, and when a board was kept by a branch committee of the Communist Party of India – Marxist, in front of a temple along with the photograph of the departed soul, it was written in the board as “പ്രിയ സഖാവിനു വീട്”. The prosecution alleges in that case that with an intention to defame the deceased, the same is edited



by the accused as “പ്രിയ സഖാവിനു വട”. In such a situation, this Court observed that the offence under Section 153 IPC and Section 120(o) of the KP Act is not attracted. But, here is a case where the allegation is that the petitioner sent two SMS to the Additional Private Secretary to the Chief Minister that he would kill the Chief Minister. The dictum laid down in the background of the facts in **Sanjeev's** case is not applicable in the present case.

12. Counsel for the petitioner also relied on the judgment of **Ramesh's** case (supra). The facts in that case were that the accused sent a picture through WhatsApp from his mobile number to the mobile number of another person, and the transmitted picture was the campaign poster of the 2nd respondent lady, the defacto complainant, who was a candidate as well as the national leader of a political party. This Court observed that, Section 153 IPC is not attracted. On facts, I am of the considered opinion that the dictum in **Ramesh's** case



(supra) is also not applicable in the present case because here, there is a threat message from a bank employee to the Additional Private Secretary to the Chief Minister, saying that he will kill the Chief Minister.

13. Similarly, the dictum laid down in **Manuel P.J.**'s case (supra) is also not applicable in this case because, in that case also, the allegation is that a poster was seen affixed exhorting the public to boycott the election. According to me, the facts in that case are also not similar to the facts in this case.

14. Moreover, a Magistrate, while considering an application under Section 258 Cr.P.C., need not scrupulously consider the ingredients of the offences alleged in length at that stage. Section 258 Cr.P.C. is not a provision to discharge an accused. But it is a provision by which the court can stop the proceedings of a criminal case. Therefore, the court need not consider the ingredients of the offences alleged in detail while considering a Section 258 Cr.P.C. application to stop the



proceedings, like an application for discharge considered by the court in the trial of warrant cases or the trial before the court of Sessions. In addition to that, here is a case where there is a threat to the life of a Chief Minister. There is a motive also alleged by the prosecution. The petitioner sent such a message on the date on which the election results were published, in which the Left Democratic Front, led by the Chief Minister, won the election for the second time. That is a mandate of people in a democracy. Such threatening messages are not only against an individual, but it is against democracy and ultimately against the people who participated in a democratic process. Such action should be handled with the Iron hand of the law, with a message to society. Moreover, in the peculiar facts and circumstances of this case, whether any other serious offences are made out or not is a matter to be decided by the trial court at the appropriate stage. Therefore, I am of the considered opinion that there is nothing to interfere with the impugned



order.

15. The counsel for the petitioner also relied on the judgment of the Apex Court in **John v. State of U.P.** [2025 KLT Online 1008 (SC)]. The counsel submitted that, where the investigation of the cognizable offence itself suffers from legal infirmity and without jurisdiction from the initial stage, if any non-cognizable offence is alleged along with the same, the police cannot seek the shield under Section 155(4) Cr. P.C. The Apex Court in **John's** case (supra) observed like this:

"37.We are mindful of the position that where, during the investigation of a cognizable or non - cognizable offence on the basis of an FIR lodged, new facts emerge that will constitute the commission of a non - cognizable offence under IPC, in which event, the police can continue with the investigation of the non - cognizable offence of which there cannot be any dispute. Thus, even if it is assumed that in the course of the investigation of a cognizable offence, the ingredients of a non - cognizable offence are discovered then the police could have continued the investigation without the written complaint to the court or the order of the court in respect of such non - cognizable offence, as it would also be



deemed to be a cognizable offence under S.155(4) of the CrPC, but where the investigation of the cognizable offence itself suffers from legal infirmity and without jurisdiction from the initial stage, the entire investigation would be vitiated. For this reason, the police cannot seek the shield under S.155 (4) of the CrPC when the FIR did not disclose the commission of a cognizable offence.”

16. In this case, I am of the considered opinion that this Court need not scrupulously consider the ingredients of Section 155 Cr.P.C. at this stage. The question raised by the petitioner is left open, and the petitioner is free to raise the same before the trial court at the appropriate stage. Therefore, I am of the considered opinion that such a contention need not be entertained by this Court at this stage.

17. The social media comments are a menace to society now. Not only the citizens, but the constitutional authorities are also maligned and defamed with derogatory statements. Even threat messages are sent unnecessarily to the office of the constitutional authorities to create panic among the police



authorities. When such allegations are there, this Court cannot ignore the same and shut its eyes and say that no offence is made out prima facie. Here is a case where the allegation is that the petitioner sent a message to the Additional Private Secretary to the Chief Minister of Kerala stating that he would kill the Chief Minister. Two such messages were sent. If this Court, even without a trial, declare that no offence is made out, it will give a wrong message to society. I am of the considered opinion that, in such cases, the accused should face trial and raise all the contentions before the trial court at the appropriate stage. The trial court will consider all contentions of the petitioner untrammled by any observation in this order. The upshot of the above discussion is that, there is nothing to interfere with the impugned order. There is no merit in this Revision Petition.

Accordingly, the Criminal Revision Petition is dismissed.



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P.V.KUNHIKRISHNAN, JUDGE

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