

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.SOMARAJAN

THURSDAY, THE 24TH DAY OF SEPTEMBER 2020 / 2ND ASWINA, 1942

Cr1.MC.No.2220 OF 2020(F)

CRIME NO.525/2019 OF MANJERI POLICE STATION, MALAPPURAM

PETITIONER/ACCUSED :

FIROZ, AGED 41 YEARS,
S/o MUHAMMED, POOZHUKUTH HOUSE,
KARAT, MELAKKAM.P.O, KARUVAMBURAM,
ERNAD TALUK, MALAPPURAM

BY ADV. SRI.P.K.ANIL

RESPONDENTS/COMPLAINANTS:

- 1 S.I OF POLICE,
VAYAPPARAPADI,
KACHERIPPADI, MANJERI-676121
- 2 STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, KOCHI-682031

BY PUBLIC PROSECUTOR SRI.RAMESH CHAND

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 24.09.2020.
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

Heard. FIR in Crime No.525/2019 sought to be quashed by relying on the legal proposition laid down in **State of Uttar Pradesh v. Aman Mittal [2020 (1) KLT 260 (SC)]** on the ground that the penal provision under the Indian Penal Code would not stand attracted and the accused cannot be charged for the said offences when it is covered by provisions contained in a special enactment. The present crime was registered by Manjeri Police Station on the allegation of offence punishable under Sections 124A, 420 IPC, Sections 4 and 20 of Indian Telegraph Act, 1885 and Sections 3 and 6 of Indian Wireless Telegraphy Act, 1933.

2. In **Aman Mittal's** case (supra), it was observed by the Apex Court that Section 3 of Essential Commodities Act, 1955, completely overrides the provisions of Chapter XIII of Indian Penal Code and as such, the accused cannot be charged for the same offence under Chapter XIII of IPC. But Sections 4 and 20 of the Indian Telegraph Act, 1885 and Sections 3 and 6 of Indian Wireless Telegraphy Act, 1933 are independent offences having no overriding effect over Chapter XIII of Indian Penal Code. The allegation levelled

against is not confining to the provisions contained in the special enactment, but extend to the offence of sedition punishable under Section 124A of IPC and the offence of cheating by playing deception on the statutory authority. It is not a mere case of violation of any of the provisions contained in the special enactment. Hence there cannot be any overriding effect especially when the allegation levelled against would prima facie satisfy the ingredients which would attract sedition as defined under Section 124A IPC by maintaining a parallel telephone exchange in secrecy and also the offence of cheating by playing deception on the statutory authority causing unlawful loss and gaining unlawful enrichment.

Crl.M.C. is hence dismissed.

Sd/-

P . SOMARAJAN

JUDGE

DMR/-

APPENDIX

PETITIONER'S ANNEXURE:

ANNEXURE A1

**A TRUE COPY OF THE FIR IN CRIME NO.525/2019
OF MANJERI POLICE STATION**

RESPONDENTS' ANNEXURE: NIL

// TRUE COPY //

P.A. TO JUDGE