



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

THURSDAY, THE 10TH DAY OF JULY 2025 / 19TH ASHADHA, 1947

CRL.MC NO. 7442 OF 2019

CC NO.1058 OF 2018 OF JUDICIAL MAGISTRATE OF FIRST

CLASS COURT-I, THIRUVANANTHAPURAM

PETITIONERS/ACCUSED NOS.1 & 2:

- 1 RAMAKRISHNAN
 AGED 45 YEARS
 S/O.KUNNISSERI RAMAN, CHENATH NADU DESOM,
 KIZHAKKE CHALAKKUDY VILLAGE, CHALAKKUDY.
- 2 ULLAS.U,
 AGED 34 YEARS
 S/O.UPENDRAN, 'NEELANARAKAM',
 KANIEETTUKARA.P.O, ARIYOOR,
 PATHANAMTHITTA, PIN-689611.

BY ADV SRI.C.P.UDAYABHANU

RESPONDENTS/COMPLAINANT:

- 1 STATE OF KERALA
 REPRESENTED BY THE PUBLIC PROSECUTOR,
 HIGH COURT OF KERALA, ERNAKULAM.
- 2 SATHYABHAMA,
 AGED 59 YEARS
 D/O.KUNJIAMMA, 'SINDHOORAM',



T.C.27/525(3), THAMBURANMUKKE, RISHIMANGALAM,
VANCHIYOOR, THIRUVANANTHAPURAM-695035.

BY ADVS.
SRI.J.R.PREM NAVAZ
SHRI.SUMEEN S.
SRI.E.C.BINEESH-SR.PP

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
10.07.2025, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:



ORDER

This Crl.M.C has been filed to quash all further proceedings in C.C.No.1058 of 2018 on the files of the Judicial First Class Magistrate Court-I, Thiruvananthapuram (for short, ‘the trial court’).

2. The 2nd respondent filed a private complaint against the petitioners before the trial court alleging offences punishable under Section 500 r/w Section 34 of IPC. The allegations in Annexure AI complaint is that a telephonic conversation between the complainant and the 1st accused were secretly recorded by the 1st accused and both accused published a portion of its contents which according to the complainant was defamatory. The trial court conducted enquiry under Section 202 of Cr.P.C. The complainant and two witnesses were examined. The trial court took the complaint on file and issued process to the petitioners. This Crl.M.C has been filed to quash Annexure-AI complaint on the ground that no offences under Section 500 r/w



Section 34 of IPC are attracted.

3. I have heard Sri.C.P.Udayabhanu, the learned counsel for the petitioners, Sri.J.R.Prem Navaz, the learned counsel for the 2nd respondent and Sri.E.C.Bineesh, the learned Senior Public Prosecutor.

4. The learned counsel for the petitioners submitted that the prosecution against the petitioners is not maintainable for the simple reason that the alleged defamatory statements are not reproduced in the complaint nor did the petitioners produce a copy of the publication containing the alleged defamatory statements along with the complaint. Reliance was placed on the decision of this Court in **Konath Madhavi Amma v. S.M.Sherief & Another** (1985 Kerala Law Journal 317). On the other hand, the learned counsel for the 2nd respondent submitted that the averments in the complaint *prima facie* disclose the offence under Section 500 of IPC and hence, the jurisdiction vested with this Court under Section 482 of Cr.P.C to quash the proceedings cannot be invoked at this stage. The



learned counsel further submitted that the publication containing defamatory statement can be produced during the trial.

5. The 2nd respondent is a dance performer and was an Executive Board Member of Kerala Kalamandalam which is deemed to be a University of Art and Culture. The 1st petitioner & 2nd petitioner are artists. They are performers of Mohiniyattom. The following are the allegations against the petitioners in Annexure-AI complaint:-

“(a) That during January, 2018, the Malayalee Association at Abu Dhabi had conducted a dance competition and she was a judge in the above competition.

(b) That the students trained by the 1st accused had participated in the respective competition. However, they did not win any laurels.

(c) It was believed by the 1st accused that the complainant had purposefully ignored the students trained by the 1st accused.

(d) That the 1st accused rang up the complainant questioned her on the propriety of her decision and the complainant explained to him what had happened in the competition.

(e) In the process of the above conversation the complainant told the 1st accused that the "mudras" shown/exhibited by his



students were incorrect and that mistakes are common and also that even experienced teachers commits mistakes. This phone conversation was secretarially recorded by the 1st accused and he caused to publish it in the social media that the complainant had spoken ill about her Gurus. The complainant was also projected as the lady of loose morals and thereby her esteem in the society had been lowered.”

6. In Annexure-AI the alleged defamatory statement has not been reproduced or extracted. The complaint does not specifically mention the date on which the petitioners allegedly made the publication. The case of the complainant is that an edited version of the telephonic conversation between her and the 1st accused was published and propagated through the social media as well as the printed media. But the so called publication has not been produced. No document has also been produced to show that the petitioners published or transmitted the alleged conversation through any media. Moreover, there is no specific averment in Annexure-AI complaint that any particular portion of the conversation or the incriminating portion of the



conversation allegedly transmitted or published by the petitioners were defamatory to her. This Court in ***Konath Madhavi Amma*** (supra) has held as follows:

“In a defamation case, the only paper containing the accusation of offences given to the accused is the complaint. What he is called upon A to answer are the accusations in the complaint. Absence of necessary allegations in the complaint cannot be made good by the evidence during trial. Cause of action is the allegation in the complaint alone What is required further is only adducing evidence in support of those allegations. Accused is entitled to know what are the allegations against him. Then only he will be able to answer the allegations and shape his defence. For that purpose, he cannot be asked to look into the evidence oral or documentary. Such evidence is intended only as proof of accusations. Defect in the complaint cannot be made good by evidence adduced during trial. According to the decided English cases dealing with libel the actual words alleged to be used must be stated in the B indictment. In our country such a strict standard is not insisted while dealing with cases of defamation by spoken words. That may be because spoken words are difficult to be understood and remembered for reproduction in first person. But we are dealing with a case of written accusation that came in the papers and not spoken words. Even according to the law followed in our country it is desirable to reproduce the defamatory words in first person to



the extent possible. When the defamatory statements are not unreasonably lengthy so as to make them impossible or difficult of reproduction in first person, law insist such reproduction. The object is to enable the accused to understand and answer the allegations against him. Even in cases of impossibility of reproduction in first person, law insists on a substantial account of the accusations being included in the complaint Otherwise the complaint is considered defective.”

7. The above dictum would show that in a defamation case, the alleged defamatory statement has to be reproduced in the complaint. The publication, if any has also to be produced along with the complaint. Since the complainant has failed to produce the alleged defamatory publication made by the petitioners, the offence under Section 500 of IPC cannot be attracted against the petitioners. It is only when the complainant produces the materials that support a prima facie case for defamation that the learned Magistrate can take cognizance of the offence. For these reasons, I hold that no useful purpose will be served by allowing the criminal prosecution against the



petitioners to continue. Hence, all further proceedings in C.C.No.1058 of 2018 on the files of the Judicial First Class Magistrate Court-I, Thiruvananthapuram against the petitioners are hereby quashed.

The Crl.M.C. is, accordingly, allowed.

Sd/-

DR.KAUSER EDAPPAGATH, JUDGE

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APPENDIX OF CRL.MC 7442/2019

PETITIONER ANNEXURES

ANNEXURE A1	TRUE COPY OF THE COMPLAINT IN C.C.NO.1058/2016 ON THE FILES OF THE JUDICIAL MAGISTRATE OF FIRST CLASS-1, THIRUVANANTHAPURAM DATED 19/09/2018.
ANNEXURE A2	A PHOTOCOPY OF THE NEWSPAPER DATED NIL OBTAINED FROM THE TRIAL COURT
ANNEXURE A3	TRUE COPY OF THE ORDERS OF THE VICE CHANCELLOR OF KERALA KALAMANDALAM DATED 06/09/2018
ANNEXURE A4	A COPY OF THE ORDER IN CRL.M.C.NO.2134/2019 DATED 11.06.2019 PASSED BY THIS HON'BLE COURT.
ANNEXURE A5	COPY OF THE ORDER IN CMP NO. 512/2018 DATED 05.12.2018 PASSED BY THE JFCM COURT NO. 1, THIRUVANANTHAPURAM