

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 8TH DAY OF DECEMBER 2015/17TH AGRAHAYANA, 1937

Cr1.MC.No. 189 of 2015

IN C.C 595/2014 OF THE JUDICIAL FIRST CLASS MAGISTRATE
COURT, ERATTUPETTA
CRIME NO. 622/2014 OF ERATTUPETTA POLICE STATION, KOTTAYAM

PETITIONERS/ACCUSED NOS 1 & 2:

1. BIBINRAJ, AGED 23 YEARS,
S/O. SOMARAJAN A.S, ATTUVELIL HOUSE,
POONJAR SOUTH P.O., KOTTAYAM DISTRICT - 686 582.
2. SOMARAJAN A.S, AGED 50 YEARS,
S/O. SREEDHARAN, ATTUVELIL HOUSE, POONJAR SOUTH P.O,
KOTTAYAM DISTRICT - 686 582.

BY ADVS.SRI.C.S.MANU
SRI.S.K.PREMRAJ

RESPONDENTS/COMPLAINANT AND THE INVESTIGATING OFFICER:

1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.
2. THE CIRCLE INSPECTOR OF POLICE,
ERATTUPETTA POLICE STATION, KOTTAYAM DISTRICT,
(NOTICE TO WHOM MAY BE SERVED ON THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM)
3. VIJI BABU, AGED 44 YEARS,
W/O. BABU, MUTHUKULATHU HOUSE,
CHALARIKKUNNU BHAGOM,
THEKKEKARA, POONJAR NADUBHAGOM VILLAGE,
POONJAR P.O,
KOTTAYAM DISTRICT - 686 582.

R3 BY ADV. SRI.P.C.HARIDAS
R1 & R2 BY PUBLIC PROSECUTOR SRI.JUSTIN JACOB

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
08-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 189 of 2015

APPENDIX

PETITIONERS' ANNEXURES

A1 - COPY OF FINAL REPORT/CHARGE SHEET DT. 31.5.14 IN CRIME NO. 622/14 OF ERATTUPETTA POLICE STATION, KOTTAYAM DISTRICT, TAKEN ON FILE AS CC NO. 595/2014 ON THE FILES OF THE COURT OF JUDICIAL FIRST MAGISTRATE, ERATTUPETTA.

A2 - COPY OF THE SCENE MAHAZAR IN CRIME NO. 622 OF 2P14 PREPARED BY THE 2ND RESPONDENT, CIRCLE INSPECTOR OF POLICE, ERATTUPETTA POLICE STATION.

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.189 of 2015

Dated this the 8th day of December, 2015

O R D E R

A prosecution involving the offence under Section 354A(iv) of the Indian Penal Code in C.C No.595/2014 of the Judicial First Class Magistrate Court, Erattupetta is sought to be quashed by the petitioners, who are the two accused therein. They seek orders on the ground that the allegations made in the complaint by the third respondent will not constitute the offence alleged by the prosecution.

2. On hearing both sides, and on a perusal of the materials which allegedly contain the objectionable statements, I find that the allegation of the third respondent is practically that she was defamed or abused by the petitioners herein. For a prosecution under Section 354A(iv) IPC, the prosecution must have a case that the accused made some sexually coloured remarks against the victim. Here, on a perusal of the objectionable material, I find nothing to attract Section 354A(iv) of the IPC. However, I find that it contains some abusive materials, which will have the effect of humiliating or abusing

the victim. If she believes, and if she is confident, that such words or statements will amount to defamatory material, she will have to file a complaint alleging the offence under Section 500 of IPC. Presently, I am not making any observation whether those statements will attract such a prosecution. When such a complaint comes, the court will have to decide whether such statements are in fact defamatory. What I find, at present, is that the objectionable material contains some abusive words. These statements will not come under Section 354A(iv) IPC as sexually coloured statements. I find that the present prosecution can be closed without prejudice to the right of the third respondent to pursue the proper remedy, if permissible, under the law.

In the result, this Crl.M.C is allowed. The prosecution against the petitioners in C.C No.595/2014 of the Judicial First Class Magistrate Court, Erattupetta will stand quashed under Section 482 of the Code of Criminal Procedure.

**Sd/-
P.UBAID
JUDGE**

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