

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 6TH DAY OF OCTOBER 2015/14TH ASWINA, 1937

Crl.MC.No. 1240 of 2015 ()

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CMP. NO.10982/2014 OF JUDICIAL FIRST CLASS MAGISTRATE COURT,
MALAPPURAM.**

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PETITIONERS/ACCUSED NOS 1 & 2:

- 1. BINOY M.A., AGED 31 YEARS,
S/O.RADHAKRISHNAN THAMPAN, VIJAY VIHAR HOUSE,
MORAYUR POST, MALAPPURAM DISTRICT.**
- 2. NAVEEN CHAND, AGED 31 YEARS,
S/O.RAMACHANDRAN NAIR, KARTHIKA, KAKKATT HOUSE,
TENHIPALAM POST, MALAPPURAM DISTRICT.**

**BY ADVS.SRI.P.S.SREEDHARAN PILLAI,
SRI.T.K.SANDEEP,
SRI.ARJUN SREEDHAR,
SRI.ARUN KRISHNA DHAN,
SRI.JOSEPH GEORGE (MULLAKKARIYIL).**

RESPONDENT/COMPLAINANT & STATE:

- 1. STATE OF KERALA,
REPRESENTED BY ITS PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 31.**
- 2. MANJU N.NAIR, AGED 27 YEARS,
D/O.P.V.NARAYANAN NAIR, PUTHIYAVEETIL HOUSE,
'MANJULA', OLAKARA P.O., OLAKARA AMSOM & DESOM,
THIRURANGADI TALUK, MALAPPURAM DISTRICT- 676 306.**

**R1 BY PUBLIC PROSECUTOR SMT.SAREENA GEORGE.
R2 BY ADV. SRI.C.PUSHPODARAN**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 06-10-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S ANNEXURES:-

- ANNEXURE I:** A TRUE COPY OF THE COMPLAINT IN C.M.P.NO. 10982/2014 FILED BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT, MALAPPURAM DATED 24/10/2014.
- ANNEXURE II:** A TRUE COPY OF THE FIR IN CRIME NO. 1079/2014 OF KONDOTTY POLICE STATION DATED 25/10/2014.
- ANNEXURE III:** A TRUE COPY OF THE QUOTATION ISSUED BY THE 1ST PETITIONER HEREIN TO THE 2ND RESPONDENT DATED 20/07/2013.
- ANNEXURE IV:** A TRUE COPY OF THE EMAILS SENT BY OTWOHOSTING IN THE NAME OF 1ST PETITIONER DATED 27/07/2013.
- ANNEXURE V:** TRUE COPY OF THE RECEIPT ISSUED BY 'OTWOHOSTING' FOR THE SAME DATED 27/07/2013.
- ANNEXURE VI:** A TRUE COPY OF THE WEB DETAILS FOR THE DOMAIN NAME WWW.CHACCHEMMAD.COM AS DISPLAYED IN THE WEBSITE NAMED WWW.WHOIS.COM.
- ANNEXURE VII:** A DRAFT DESIGN OF THE WEBSITE NAMED WWW.CHCCCHEMMAD.COM DURING ITS WORKING STAGE.
- ANNEXURE VIII:** A TRUE COPY OF THE REMINDER E-MAIL SENT BY OTWOHOSTING TO THE 1ST PETITIONER DATED 21/06/2014.
- ANNEXURE IX:** A TRUE COPY OF THE SENT BY OTWOHOSTING TO THE 1ST PETITIONER DATED 27/07/2014.
- ANNEXURE X:** A COMPUTER COPY OF THE WEBSITE PRESENTLY AVAILABLE ONLINE.

RESPONDENT'S ANNEXURES:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

B. KEMAL PASHA, J.

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CRL. M.C. No. 1240 of 2015
.....

Dated this the 6th day of October, 2015

ORDER

Petitioners are A1 and A2 in Crime No.1079/14 of the Kondotty Police Station, registered for the offence punishable under Section 420 read with Section 34 IPC and Sections 65, 66 and 67 of the Information Technology Act, 2000.

2. The allegation against the petitioners is that for creating a website for the defacto complainant, the first petitioner obtained amounts for the same from the defacto complainant and created the website. The 2nd petitioner was the husband of the defacto complainant. When their marital relationship strained, it is alleged that the 2nd petitioner influenced the first petitioner and interfered with

the website by hacking, and the website itself was lost.

3. The learned counsel for the petitioners has pointed out that through Annexure VIII, the defacto complainant was asked to make the payment for the web space and to keep that domain registration as such. Even though repeated requests were made, the defacto complainant has not cared to pay the required charges for the web space. Finally, Annexure-IX letter was issued by showing the domain details, and once again given an opportunity to the defacto complainant to get the web space resumed. As the defacto complainant has not cared to do it, she has lost the web space.

4. Last time, the case was adjourned for hearing the 2nd respondent. Today also, the 2nd respondent has not turned up. As no explanation has been offered by the 2nd respondent with regard to the aforesaid specific allegations of the petitioners, this Court is of the view that no offence has been made out as alleged and therefore Annexure-I

complaint and Annexure-II FIR based on the complaint are liable to be quashed.

In the result, this Crl.M.C. is allowed and Annexure-I complaint and Annexure-II FIR are hereby quashed.

Sd/- B.KEMAL PASHA, JUDGE

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[True copy]

P.S. to Judge