

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 27TH DAY OF MARCH 2015/6TH CHAITHRA, 1937

Crl.MC.No. 2029 of 2015 ()

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(ST.NO. 17/2012 OF JUDICIAL FIRST CLASS MAGISTRATE COURT -V, (SPL.COURT
FOR MARKLIST CASES), THIRUVANANTHAPURAM)
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PETITIONER/ACCUSED:

**SUNIL CHANDRASEKHARAN, AGED 37 YEARS,
S/O.CHANDRASEKHARAN PILLAI,
RESIDING AT MAYOORAM VEEDU, PILLAI VEEDU LANE,
KESAVADASAPURAM, THIRUVANANTHAPURAM.**

BY ADV. SRI.K.RAJESH KANNAN

RESPONDENT/COMPLAINANT:

**STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.**

BY SR PUBLIC PROSECUTOR SMT. SAREENA GEORGE.P.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 27-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

sts

Crl.MC.No. 2029 of 2015 ()

APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEX A- CERTIFIED COPY OF THE CHARGE SHEET S.T.NO.17/2012 ON THE FILE
OF JUDICIAL FIRST CLASS MAGISTRATE COURT -V, (SPECIAL COURT
FOR MARK LIST CASES) THIRUVANANTHAPURAM.**

RESPONDENT(S)' ANNEXURES: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

P. UBAID, J.

Crl.M.C.No.2029 of 2015

Dated this the 27th day of March, 2015

O R D E R

The petitioner herein is the accused in a petty case brought by the Cantonment Police, Thiruvananthapuram as S.T.No.17/2012 before the Judicial First Class Magistrate Court-V, Thiruvananthapuram under Section 290 IPC, alleging an act of public nuisance. On the very same allegation, another petty case was filed by the police against another person. He claimed to be tried, and ultimately he obtained a judgment of acquittal. This petitioner also pleaded not guilty, and claimed to be tried. Now, he seeks orders under Section 482 Cr.P.C. quashing the prosecution on the ground that the allegations made by the police in the petty case charge sheet will not constitute the offence punishable under Section 290 IPC. Annexure-A is copy of the said petty case complaint brought under 290 IPC. This does not contain the necessary elements and essentials constituting the offence of public nuisance. The complaint does not show what words were in fact said or uttered by the petitioner, and how such words or utterances will cause annoyance or discomfort to others, or in what manner these words or utterances are offensive, amounting to public nuisance. The exact place of incident is also

not mentioned in the said complaint. Section 290 IPC deals with public nuisance not otherwise dealt with under any other Section of the Indian Penal Code. Section 268 IPC defines public nuisance. Act of public nuisance is any act or illegal omission causing any common injury, danger or annoyance to the public, or to the people generally occupy property in the vicinity, or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right. The allegations made by the police in this case will not constitute the offence of public nuisance as defined under Section 268 IPC. Uttering some words loudly in a public place will not by itself constitute the offence of public nuisance, or the offence punishable under Section 290 IPC. I find that the present prosecution against the petitioner is legally unsustainable. Continuance of this prosecution will be nothing but abuse of legal process.

In the result, this petition is allowed. The prosecution against the petitioner in S.T.No.17/12 of the Judicial First Class Magistrate Court-V, Thiruvananthapuram will stand quashed under Section 482 Cr.P.C.

Sd/-
P. UBAID, JUDGE

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