

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

SATURDAY, THE 21ST DAY OF NOVEMBER 2015/30TH KARTHIKA, 1937

Crl.MC.No. 2080 of 2015 ()

AGAINST CC 573/2012 of J.M.F.C.,VAIKOM

PETITIONER(S)/ACCUSED :

JOSE V.JACOB ALIAS JOSE VELIKKAKATH, AGED 49 YEARS
S/O. JACOB, VELIKKAKATH HOUSE, VADAYAR VILLAGE
THALAYOLAPARAMBU P.O.

BY ADVS.SRI.ABRAHAM P.GEORGE
SRI.K.VINODKUMAR (707/89)
SMT.M.SANTHY

RESPONDENT(S)/STATE & DEFACTO COMPLAINANT:

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

2. SELINAMMA , AGED 47 YEARS
W/O. GEORGE, THEKKEVEETIL HOUSE, UMAKKUNNU
THALAYOLAPARAMBU KARA, THALAYOLAPARAMBU P.O.
PIN-675 014.

R2 BY ADV. SRI.T.A.SHAJI (SR.)
R2 BY ADV. SMT.NAMITHA JYOTHISH
R1 BY PUBLIC PROSECUTOR SRI.JUSTIN JACOB

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
21-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 2080 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

ANNEXURE A1 : COPY OF THE FIR REGISTERED IN CRIME 703/2012 OF
THALAYOLAPARAMBU POLICE STATION BY THE POLICE.

ANNEXURE A2 : CERTIFIED COPY OF FINAL REPORT/CHARGE SUBMITTED BY THE
POLICE.

ANNEXURE A3 : COPY OF THE ORDER PASSED BY THE HON'BLE UPA LOK AYUKTA
DTD.12.3.2015.

RESPONDENT(S)' EXHIBITS

/TRUE COPY/

P.A TO JUDGE

P.UBAID, J.

Crl.M.C No.2080 of 2015

Dated this the 21st day of November, 2015

O R D E R

A prosecution involving the offence under Section 509 of the Indian Penal Code is sought to be quashed under Section 482 of the Code of Criminal Procedure. The petitioner herein is the accused in the said case, now pending as C.C No.573/2012 before the Judicial First Class Magistrate Court, Vaikom. The defacto complainant is the 2nd respondent herein. The alleged incident happened on 9.10.2012. The 2nd respondent brought the complaint only on 19.10.2012. Annexure A1 is the FIR in this case. This contains the first information statement given by the 2nd respondent. She was the President of Thalayolaparambu Grama Panchayat on the date of incident, and the petitioner herein was a member. The alleged incident happened when the Panchayath Council proceeded for a meeting on 9.10.2012 at about 11 am. The complainant's grievance is that before proceeding for the meeting, the petitioner herein asked the complainant to change her sari. There is nothing to show that this petitioner had said or uttered

any other word, abusive or otherwise.

2. What is punishable under Section 509 IPC is any word said, or thing done, or gesture made, or any object exhibited, by a person, with the object of insulting the modesty of a woman. It is not known how simply asking a lady to change her sari will amount to words insulting the modesty of a woman. What is insulted, for a prosecution, must be the modesty of a woman and not the modesty of her dress. In this case, I do not find anything for a prosecution under Section 509 of the Indian Penal Code in the statement or words alleged to have been said by the petitioner. It appears that there is some other enmity between them; political or otherwise. To bring a prosecution under Section 509 IPC, there must be something definite, insulting the modesty of a woman. The complaint made by the 2nd respondent in this case does not contain anything to attract Section 509 IPC. A member just asked the President to change her sari, or to be properly dressed before proceeding to the council meeting. I fail to understand how this will insult the modesty of the President. I find that the present prosecution under Section 509 of IPC will be an abuse of legal process, if allowed to continue.

In the result, this Criminal Miscellaneous Case is allowed. The prosecution against the petitioner in C.C No.573/2012 of the Judicial First Class Magistrate Court, Vaikom will stand quashed under Section 482 of the Code of Criminal Procedure.

**Sd/-
P.UBAID
JUDGE**

//True Copy//

P.A to Judge

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