

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 3RD DAY OF SEPTEMBER 2015/12TH BHADRA, 1937

Crl.MC.No. 5077 of 2015

**CC 1367/2012 OF JUDICIAL FIRST CLASS MAGISTRATE COURT - I, PATHANAMTHITTA
CRIME NO. 953/2012 OF ARANMULA POLICE STATION, PATHANAMTITTA**
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PETITIONER(S)/ACCUSED NO.1 & 3:

- 1. NEETHU, AGED 25 YEARS,
W/O. SUJITH SOMAN, RESIDING AT SREEJITH BHAVAN,
PARIYARAM MURI, ELANTHOOR VILLAGE,
PATHANAMTHITTA DISTRICT.**
- 2. SAJITH K. KAMALAN, AGED 29 YEARS,
S/O KAMALAN, RESIDING AT KULATHINU KAROTTU VEEDU,
KARAMVELIL, MALLAPUZHASSERY VILLAGE,
PATHANAMTHITTA DISTRICT.**

BY ADV. SRI.MANU RAMACHANDRAN

RESPONDENT(S)/COMPLAINANT AND DE-FACTO COMPLAINANT:

- 1. STATE OF KERALA,
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
ARANMULA POLICE STATION WHO IS
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**
- 2. T.D.BIJU, AGED 42 YEARS,
S/O DIVAKARAN,
RESIDING AT CHIRATTOLICKAL THADTHIL HOUSE,
KURAVANKUZH, PULLADU MURI, KOIPPURAM VILLAGE,
PATHANAMTHITTA DISTRICT.**

R1 BY PUBLIC PROSECUTOR SMT. P.MAYA

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
03-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

msv/

Crl.MC.No. 5077 of 2015

APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEXURE A1: THE CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.953/2012
OF ARANMULA POLICE STATION FILED BEFORE THE JUDICIAL FIRST
CLASS MAGISTRATE COURT-I, PATHANAMTHITTA.**

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msv/

B. KEMAL PASHA, J.

Crl. M.C. No. 5077 of 2015

Dated this the 03rd day of September, 2015

ORDER

Petitioners are A1 and A3 respectively in Crime No. 953/2012 of Aranmula Police Station presently pending as C.C. No.1367/2012 before the Judicial First Class Magistrate's Court-I, Pathanamthitta for offences punishable under Sections 323, 294(b) and 109 r/w Section 34 IPC.

2. It is a case wherein the defacto complainant had allegedly made use of a mobile phone to take the photographs of the 1st petitioner. The 1st petitioner allegedly informed the incident to her husband over the phone. It is alleged that, consequently, A2 to A4 reached the spot by motor bikes, and the defacto complainant was beaten up. He allegedly escaped by a KSRTC bus. It is alleged that they followed the KSRTC bus, got in it and again the defacto

complainant was beaten up.

3. It seems that the Police have registered the crime against the 1st petitioner whose photographs were allegedly recorded by the defacto complainant, as the 1st accused. According to the petitioners, the present 1st accused is the victim of an offence and she had not involved in the incident. Further, it is the case of the petitioners that the 3rd respondent had not participated in the incident and he had never appeared at the scene of occurrence also.

4. Heard the learned counsel for the petitioners and the learned public prosecutor.

5. The only allegation against the 1st petitioner, who is the present 1st accused is that she could note down that the defacto complainant had recorded her photos by using his mobile phone, and then she complained the matter to her husband over the phone apart from that she had not participated in the incident. There is no allegation that she

had directed or insisted the other accused to attack the defacto complainant. It seems that quite unnecessarily the 1st petitioner has been dragged into this case.

6. Similarly, the learned counsel for the petitioners has pointed out that the 3rd petitioner was the surety who appeared at the Police Station for the 2nd accused and it is by mistake, the Investigating Officer has incorporated the name of the 2nd petitioner, as the 3rd accused.

7. On hearing the learned counsel for the petitioner and the learned public prosecutor and on going through the records produced along with Crl.M.C it seems that the present 3rd accused who is the 2nd petitioner herein was not involved in the incident. The petitioners herein who are A1 and A3 respectively are not involved in the incident and they could not have been arraigned as accused.

8. Matters being so, Annexure-A1 final report in Crime No. 953/2012 and all further proceedings in C.C.

No.1367/2012 as against these petitioners are only to the quashed.

In the result Crl. M.C is allowed and all further proceedings in C.C. No. 1367/2012 so far as it relates to these petitioners are quashed.

Sd/-
B. KEMAL PASHA,
JUDGE

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