

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 31ST DAY OF JULY 2015/9TH SRAVANA, 1937

Crl.Rev.Pet.No. 341 of 2015

**Crl.M.P.NO.373/2013 IN S.T.NO.545/2012 OF JUDICIAL FIRST CLASS
MAGISTRATE COURT-I, KODUNGALLUR**

REVISION PETITIONER/PETITIONER :-

**NISHA, AGED 31 YEARS,
W/O. SANGEETH,
KOVIL THEKKEVALAPPIL HOUSE, CHAMAKKALA,
CHENDRAPPINI VILLAGE, KODUNGALLUR TALUK,
THRISSUR-680687.**

BY ADV. SRI.M.S.VINEETH

RESPONDENTS/RESPONDENTS :-

- 1. THE STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. VIJAYAN, S/O. KUMARANSAN, KOVIL THEKKEVALAPPIL HOUSE,
CHAMAKKALA BEACH DESOM, CHENDRAPPINNI VILLAGE,
KODUNGALLUR TALUK, THRISSUR-680687.**

R1 BY SMT.S.HYMA, PUBLIC PROSECUTOR

**THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 31-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Crl.Rev.Pet.No. 341 of 2015

APPENDIX

PETITIONER(S)' ANNEXURES :-

**ANNEXURE A1 : TRUE COPY OF THE F.I.STATEMENT GIVEN BY THE PETITIONER
TO THE POLICE DATED 14.02.2012.**

**ANNEXURE A2 : TRUE COPY OF THE F.I.R. NUMBERED 419/2012 AND DATED
17.02.2012 REGISTERED BY MATHILAKOM POLICE.**

**ANNEXURE A3 : TRUE COPY OF CRIMINAL M.C.NO.373/2013 IN S.T.NO.545/2012
SUBMITTED BY THE PETITIONER FOR DIRECTION FOR FURTHER
INVESTIGATION DATED 10.01.2013.**

RESPONDENT(S)' ANNEXURES :- NIL

//TRUE COPY//

P.A. TO JUDGE

rkj

P.UBAID, J.

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Crl.R.P.No.341 of 2015
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Dated this the 31st day of July, 2015

ORDER

The petitioner herein is the defacto complainant in Crime No.419 of 2012 of the Mathilakam Police Station. On her complaint, the police registered a crime under Sections 447 and 294(b) IPC, and submitted final report before the Judicial First Class Magistrate's Court-I, Kodungallur. Pending the proceedings, she filed an application as Crl.M.P.No.373 of 2013, under Section 173(8) Cr.P.C. for further investigation. Her grievance is that her complaint contains allegations constituting the offence under Sections 354 and 506(1) IPC also. But the police, during investigation, omitted those sections, and submitted final report only under Sections 447 and 294(b) IPC. After hearing both sides, the learned Magistrate dismissed the application by order dated 18.12.2014. The said order is under challenge in this revision petition.

2. On hearing both sides, and on a perusal of the materials including the complaint made by the revision petitioner, I find that the application for further investigation was rightly dismissed by the learned Magistrate. On a perusal of the complaint, I find that the petitioner's allegation is that the accused trespassed into her property, and scolded her in filthy language. It is not known how use of filthy language or abusive words will come under Section 294(b) IPC. So also, to come under Section 354 IPC, the complainant

must have a definite case or allegation in the complaint that assault was made or criminal force was used by the accused with the object of molesting her or outraging her modesty. It is not known how use of abusive words will, by itself, come under Section 354 IPC. The complaint of the revision petitioner does not contain the essentials of the offence under Section 354 IPC. Practically, it is a case of trespass, and now there is a charge under Section 447 IPC. However, it is made clear that if any, other offence is revealed during trial, the learned Magistrate can act appropriately.

In the result, this Criminal Revision Petition is dismissed in limine, without being admitted to files.

Sd/-
P.UBAID
JUDGE

rkj

//TRUE COPY//

P.A. TO JUDGE