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Crl.O.P.No.18962 of 2023

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Reserved On	31.08.2023
Pronounced On	07.09.2023

RMT.TEEKAA RAMAN, J.

The petitioners/A1 & A2, who apprehend arrest at the hands of the respondent police for the alleged offences under **Sections 354(c), 204 of IPC and Section 66(E) and Section 67(A) of Information Technology Act and Section 34 of IPC in Crime No.173 of 2023** on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that, on 08.07.2023 the *de-facto* complainant Viz., Priyan S/o/ Alyappan along with his girlfriend approached a hotel Viz., “J.J. Residency” for a stay, which is situated on a 100 Ft. road in Puducherry. The *de-facto* complainant checks into the hotel at about 7.30 hrs and tried to get a refresher inside the room. At that time, the *de-facto* complainant finds out a hidden camera in the room power plug hole with the



intent to capture the woman engaging in a private action.

Immediately, the *de-facto* complainant asked about the illegal activities of the accused persons Anandu (25) S/o. Gnanthiyaganadan (the 1st petitioner) and Abraham (22) S/o. Kadhar Harif (the 2nd petitioner), but there was no response. So the *de-facto* complainant and his girlfriend left the hotel. Thereafter on 13.07.2023 lodged a complaint before the respondent police and in respect of the same, a case in Crime No.173 of 2023 for the offence under Sections 354(c), 204 of IPC and Section 66(E) and Section 67(A) of Information Technology Act and Section 34 of IPC has been registered.

3. The 1st petitioner is working as a Manager in the J.J. Residency for the past year and the 2nd petitioner is working as a room boy in the same hotel.

4. The learned counsel for the petitioners stated that both these accused are falsely implicated in this case and they are not aware of any offence as alleged in the First Information Report and they are not responsible for the same.



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5. The learned Additional public Prosecutor (Puducherry) would contend that *de-facto* complainant gave a complaint alleging that he was staying in room No.204 of JJ Residency on 08.07.2023. He found a hidden camera was placed in a plug point. He examined it and found that there was a wire connection given to the hidden camera. He informed this to the Manager Anand and room boy Abiraham. They visited the room and denied having placed a hidden camera and tried to remove. However, before they attempt to remove the hidden camera, *de-facto* complainant removed the camera. Both of them had in a hurry deleted video footages in the computer and also removed the wires. Thus, this complaint was given.

6. He further submitted that accused had given confessional statement admitting the hiding of the hidden camera in the room. His cellphone and computer gadgets were seized and sent for analysis by Central Forensic Department, Hyderabad.

7. It is the specific contention of the learned counsel for the petitioners that petitioners never tried transmission of material in



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electronic form for publication. The material in electronic form could be video files, audio files, text messages, animation etc. To register a case under Section 67(A) and 66(E) of the Information Technology Act against the petitioner, the *de-facto* complainant must demonstrate or show that the accused has published or transmitted material containing sexually explicit acts.

8. Section 67(A) of the Information Technology Act deals with the punishment for publishing or transmitting of material containing sexually explicit act, etc., in electronic form.

9. It is the specific averment of the *de-facto* complainant that he along with his girl friend was inside the room and their privacy has been alleged to have been recorded in the hidden camera placed in the electric plug point.

10. In respect of Section 66(E) of the Information Technology Act, it prescribes for punishment for violation, wherein explanation (b) is in respect of an image, means to videotape, photograph, film or record by any means. Section 66(E)(e)(i) of Information Technology Act prescribes “Under circumstances



violating privacy”, which means the circumstances in which a person can have a reasonable expectation that he or she could disrobe in privacy, without being concerned that an image of his private area was being captured.

11. Hence, I find that the alleged offence under Section 67(A) and 66(E) of the Act has been made out as per the uncontroverted allegations in the complaint and hence, I have no hesitation to negate the plea raised by the learned counsel for the petitioners and to hold that the complaint and the alleged offence are made out based upon the averment made in the complaint.

12. Whether the so captured private video and still photographs of the *de-facto* complainant with his girlfriend is transmitted to any social media group is a matter for investigation.

13. As stated by the learned Public Prosecutor (Puducherry), the 3rd and 4th accused who are arrested have given confession statements to the police admitting that they had hidden the cameras in the room. The cell phones and computer gadgets were already seized by the police and sent for analysis at Central



Forensic Department at Hyderabad.

14. Hence, I find that the petitioners who are the Manager and room boy has a part in management of the Hotel. They are said to have involved with the other accused in placing hidden cameras for capturing intimate movements of the inmates of the room and further there is a wiring connection for the said cameras inside the switch board and on raising the alarm by the *de-facto* complainant, they ran down and started deleting the photographs and videographs from the laptop said to have been placed in the steps, below the staircase in the ground floor.

15. Considering the nature of the allegations made against the petitioners and the analysis report of the electronic gadgets like cell phone of the petitioners and other accused and the laptop are with the forensic department and the matter is under investigation, and also taking note of the fact that Puducherry is a Tourist centre and this kind of alleged activities said to have been carried on by the accused has sensation and affects tourism at Puducherry, I am not inclined to grant anticipatory bail to the petitioners for the present.



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16. Accordingly, this Criminal Original Petition is dismissed.

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