IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE G.GIRISH

TUESDAY, THE 8TH DAY OF APRIL 2025 / 18TH CHAITHRA, 1947

CRL.MC NO. 5786 OF 2019

CRIME NO.854/2019 OF MANIMALA POLICE STATION, KOTTAYAM

PETITIONER:

SURENDRAKUMAR M.K.,
AGED 55 YEARS,
S/O. KUNJKUNJU, MANTHARA HOUSE,
VAZHOOR VILLAGE, VAZHOOR KARA,
CHANGANASERY TALUK,
CHAMAMPATHAL P.O 686 517

BY ADVS.GISA SUSAN THOMAS
SMT.K.V.BHADRA KUMARI
SMT.KRISHNA REGHU

RESPONDENTS:

1 **STATE OF KERALA**
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA AT ERNAKULAM,
COCHIN 682 031

2 **JUNIOR SUPERINTENDENT,**
MANIMALA POLICE STATION,
KOTTAYAM DISTRICT 686 517

3 **SHEELA ALIAS SHYLA, AGED 49 YEARS**
W/O. LATE KUNJUKUTTY, PUTHENPURACKAL HOUSE,
VAZHOOR VILLAGE, VAZHOOR KARA,
CHANGANASERY TALUK,
CHAMAMPATHAL P.O 686 517

BY ADVS. ADVOCATE GENERAL OFFICE KERALA
SRI.M.JAYAKRISHNAN FOR R3
SRI. SANGEETHARAJ N.R., PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 07.04.2025, THE COURT ON 08.04.2025 PASSED THE FOLLOWING:

O R D E R

The accused in F.I.R.No.854/2019 of Manimala Police Station, Kottayam has filed this petition under Section 482 Cr.P.C to quash the aforesaid crime and the further proceedings initiated against him. The offence alleged against the petitioner are under Sections 452, 294(b) and 354 I.P.C.

2. The prosecution case is that on 12.07.2019 at about 5:00 a.m, the petitioner criminally trespassed into the residence of the de facto complainant, caught hold of her hands and uttered abusive words and thereby outraged her modesty. In the subsequent statement given by the de facto complainant to the Investigating Officer, it is alleged that the petitioner had torn off the nighty worn by her while committing the aforesaid acts.

3. In the present petition, the petitioner would contend that he is totally innocent and that he has been falsely implicated in this case. According to the petitioner, he belongs to the Scheduled Caste community, and that he had preferred a complaint against one Santhamma in connection with the commission of offence under Sections 3(1)(g)(p)(q)(r)(s) and (z) of SC/ST (POA) Act, and a crime

was registered by the Manimala Police against the above said Santhamma and another person on the basis of the above complaint. It is thus alleged that the present complaint preferred by the de facto complainant is under the instigation of the above said Santhamma, as a counterblast to the crime registered against her on the complaint preferred by the petitioner.

4. Heard the learned counsel for the petitioner, the learned counsel for the third respondent/de facto complainant and the learned Public Prosecutor representing the State of Kerala.

5. The learned counsel for the petitioner argued that the offences under Section 294(b) and 354 I.P.C are apparently not attracted in the facts and circumstances of this case. It is pointed out by the learned counsel for the petitioner that Section 294(b) could not be slapped against the petitioner in respect of an incident that happened inside the house of the de facto complainant. Likewise, it is argued that the mere act of getting hold of the hands of the de facto complainant cannot be taken as an act of the petitioner outraging the modesty of the de facto complainant, for invoking Section 354 I.P.C.

6. It is true that Section 294(b) I.P.C has got applicability only when the offender utters obscene words in a public place, and hence

the incident of uttering obscene words inside the house of the de facto complainant cannot bring home the requirements of Section 294(b) I.P.C. But the contention of the learned counsel for the petitioner that the offence under section 354 I.P.C is not attracted in the facts and circumstances of the case cannot be countenanced. It is pertinent to note that the de facto complainant had given an additional statement to the Investigating Officer about the act of the petitioner tearing off the nighty worn by the de facto complainant at the time of assault inside her house. The statements given by the de facto complainant in the above regard clearly bring out the requisite particulars constituting the offence under section 354 I.P.C.

7. Another contention raised by the learned counsel for the petitioner is that there was a delay of about one month in lodging the complaint, and that the de facto complainant did not narrate the incident in an earlier petition filed by her. The above aspects are not enough to quash the crime registered in this case by invoking the inherent powers of this Court under section 482 Cr.P.C. All those aspects relating to the delay in lodging the complaint and the omission to state the allegations in an earlier petition, are matters to be dealt with by the Trial Court at the appropriate stage of the proceedings. So

also, the contention of the petitioner that the de facto complainant lodged the complaint under the instigation of one Santhamma as a counterblast to the case registered upon the complaint of the petitioner alleging offences under the SC/ST (POA) Act, is a matter to be dealt with after evaluating the evidence in that regard. Therefore, the prayer of the petitioner to quash the proceedings against him in this crime, is devoid of merit.

In the result, the petition is hereby dismissed. Having regard to the facts and circumstances of the case, the Investigating Officer shall, if he opts to arrest the petitioner, comply with the requirements of Section 41A Cr.P.C before resorting to such a course.

(Sd/-)
G. GIRISH, JUDGE

jsr

APPENDIX OF CRL.MC 5786/2019

PETITIONER ANNEXURES

ANNEXURE 1	**CERTIFIED COPY OF THE FIS AND FIR NO 854 OF 2019 DATED 8-8-2019 OF MANIMALA POLICE STATION**
ANNEXURE 2	**THE COPY OF PHOTOGRAPH OF THE PATHWAY**
ANNEXURE 3	**THE COPY OF REPORT DATED 18-6-2019, BY THE VILLAGE OFFICER, VAZHOOR**
ANNEXURE 4	**THE COPY OF THE COMPLAINT DATED 15-6-2019 BY THE PETITIONER.**
ANNEXURE 5	**THE COPY OF THE FIS STATEMENT WITH FIR NO. 777/2019 DATED 9-7-2019 MANIMALA POLICE STATION**