

Shanavas.M Vs State Of Kerala

Court: High Court Of Kerala

Date of Decision: Jan. 16, 2025

Acts Referred: Code of Criminal Procedure, 1973 " Section 482
Indian Penal Code, 1860 " Section 34, 294(b), 323, 500

Hon'ble Judges: G.Girish, J

Bench: Single Bench

Advocate: K.P.Sujesh Kumar, Indu Susan Jacob, Liju.V.Stephen, Seetha.S

Final Decision: Allowed

Judgement

G.Girish, J

1. The petitioner, who is the second accused in Annexure-A1 F.I.R (third accused in the final report filed before the Judicial First Class Magistrate

Court-I, Nedumangad), has filed this petition under Section 482 Cr.P.C for quashing the proceedings initiated against him consequent to the

registration of the above crime.

2. The allegation against the accused in the above said crime is that the de facto complainant (second respondent) was subjected to voluntary hurt on

08.03.2018 at about 7:00 p.m by the first accused at the time when the Jama-Ath Committee meeting at a place called Kanyakulangara was being

presided over by the de facto complainant. It is also alleged that messages denigrating the de facto complainant were circulated to various persons,

and also to a whatsapp group at the instance of the persons by name Rafeek and Irshad who are arraigned as the first and second accused in the final

report. The petitioner is alleged to have acted in concert with the other accused in the commission of crime.

3. The S.I of Police, Vattappara Police Station filed final report before the jurisdictional Magistrate in respect of the commission of offence under

Section 294(b), 323 and 500 I.P.C read with Section 34 I.P.C. The learned Magistrate took cognizance of the offence under Section 294(b) and 323

I.P.C read with Section 34 I.P.C, and issued summons to the accused.

4. In the present petition, the petitioner would contend that even if the allegations raised against the petitioner are accepted on face value, it will not

attract any of the offence as alleged by the prosecution.

5. Heard the learned counsel for the petitioner, the learned Public Prosecutor and the learned counsel representing the second respondent.

6. As already stated above, the allegation of inflicting voluntary hurt upon the second respondent has been raised against the first accused who

allegedly pushed the second respondent forcibly upon his chin portion. The other allegations pertain to the circulation of defamatory materials depicting

the second respondent in poor light, by way of messages sent to various persons and a Whatsapp group. According to the prosecution, it were so sent

by the first accused making use of the mobile phone of the second accused. As against the present petitioner, there is only a general and superficial

allegation that he had also acted in concert with the other two accused. There is absolutely nothing stated in any of the prosecution records about the

specific role played by the petitioner while acting in concert with the other two accused. There are no materials which would show that the petitioner

herein had contributed his part of the offence by the commission of any act towards inflicting voluntary hurt upon the de facto complainant or

spreading obscene materials depicting the de facto complainant as a person of loose mores. That being so, a generalised vague accusation that the

petitioner had acted in concert with the other two accused, will not suffice in bringing home the requisites of the offence as against him. Therefore, the

prayer of the petitioner to quash the proceedings against him, is well founded.

Accordingly, the petition stands allowed. The proceedings initiated against the petitioner, consequent to the registration of Annexure-A1 F.I.R, and

C.C.No.1360/2021 on the files of the Judicial

First Class Magistrate Court-I, Nedumangad, wherein he is arraigned as the third accused, are hereby quashed. It is made clear that the continuance

of the proceedings in C.C.No.1360/2021 as against the other two accused will not be affected by this order.