

Mahsooma Vs State Of Kerala

Court: High Court Of Kerala

Date of Decision: Feb. 3, 2025

Acts Referred: Code of Criminal Procedure, 1973 â€” Section 482

Indian Penal Code, 1860 â€” Section 509

Information Technology Act, 2000 â€” Section 66D, 67A

Kerala Police Act, 2011 â€” Section 120(o)

Hon'ble Judges: G. Girish, J

Bench: Single Bench

Advocate: Shajin S.Hameed, Bindu Sreekumar, Seetha S.

Final Decision: Dismissed

Judgement

G. Girish, J

1. The petitioner is the accused in C.C.No.206/2018 on the files of the Judicial First Class Magistrate Court-I, Kasaragod, a case registered by the

Kasaragod Police in respect of the offence under Section 509 Indian Penal Code, 1860, Section 120(O) of the Kerala Police Act, 2010, and Sections

66(D) & 67A of the Information Technology Act,2000. In the present petition filed under Section 482 of the Code of Criminal Procedure, 1973(in

short, *Ä¸â¸,-ËœCr.PC.Ä¸â¸,-â¸,ç*) the petitioner seeks to quash the proceedings against him in the aforesaid case.

Ä¸, 2. The prosecution case is that during the period from 2014 to 06.09.2016, the petitioner used the internet connection of the cellphones belonging to

her and her father to create a fake facebook account and collected details from CW6 and thereafter created another fake facebook account and

made use of the above facebook accounts to criminally intimidate CW5 and also to publish the photos of CW2 with obscene comments. It is also

alleged that the photos sent to CW7 by CW2 were copied and posted by the petitioner with obscene comments in another facebook account in which

CW4 was the Admin.

3. The case has been registered by the Sub Inspector of Police, Kasaragod, as per the directions of the District Police Chief, Kasaragod, upon a

complaint submitted by CW1. After the completion of the investigation, the Inspector of Police, Kasaragod, laid the final report before the

Jurisdictional Magistrate, who took it to files and issued summons to the accused.

4. In the present petition, the petitioner would contend that she is totally innocent and that she has been falsely implicated in this case. It is further

contended that none of the offence alleged against her are attracted in the facts and circumstances of the case.

5. Heard the learned counsel for the petitioner and the learned Public Prosecutor representing the State of Kerala.

6. A perusal of the final report filed by the investigating agency would go to show that the Investigating Officer had mobilised all the necessary

materials to prosecute the petitioner for the offences alleged against her. In addition to the testimonies of the witnesses concerned, the investigating

agency claims to have recovered the necessary electronic evidence to establish the charge levelled against the petitioner. The photographs and other

particulars posted by the petitioner in facebook with obscene comments are said to have been copied into a compact disk and handed over to the

investigating agency by CW2, the daughter-in-law of CW1. The Investigating Officer is also seen to have prepared the necessary mahazar with

regard to those items. The acceptability of the evidence in the above regard cannot be considered in a proceeding under Section 482 Cr.PC. It is for

the Trial Court to evaluate the probative value of the evidence adduced by the prosecution and to arrive at a finding as to whether it could be relied on

to hold the petitioner guilty of the offences alleged. As the final report submitted by the investigating agency contains prima facie indications about the

commission of the crime by the petitioner, the request in this petition to quash the proceedings in C.C.No.206/2018 on the files of the Judicial First

Class Magistrate Court-I, Kasaragod, cannot be entertained.

Ã, In the result, the petition is hereby dismissed.

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