



2025:KER:9474

Crl.M.C.No.7420/2018

-:1:-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE G.GIRISH

FRIDAY, THE 7TH DAY OF FEBRUARY 2025 / 18TH MAGHA, 1946

CRL.MC NO. 7420 OF 2018

TO QUASH THE ORDER DATED 19/10/2017 IN CMP NO.3230/2017 AND COMPLAINT IN CC 1392 OF 2017 OF JUDICIAL MAGISTRATE OF FIRST CLASS, MATTANNUR

PETITIONER/ACCUSED NOS.2 & 3:

- 1 MAMMEN MATHEW,
AGED 74 YEARS
CHIEF EDITOR, MALAYALA MANORAMA DAILY,
KOTTAYAM - 686001.
- 2 JACOB MATHEW,
AGED 1 YEARS
MALAYALA MANORAMA COMMUNICATIONS LTD.,
KOTTAYAM- 686001.

BY ADV MILLU DANDAPANI

RESPONDENTS/RESPONDENTS:

- 1 K.BHASKARAN MASTER,
S/O MAMMEN, ARATHI, PAZHASSI AMSOM DESOM,
PAZHASSI VILLAGE, URUVACHAL P.O.,
IRITTI TALUK - 670702
- 2 STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA- 682031.

BY ADV SRI.M.SASINDRAN
SRI. SANGEETHARAJ N.R., PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 04.02.2025, THE COURT ON 07.02.2025 PASSED THE FOLLOWING:

**ORDER**

The petitioners, who are accused Nos.2 & 3 in C.C.No.1392/2017 on the files of the Judicial First Class Magistrate Court, Mattannur, have filed this petition under Section 482 of the Code of Criminal Procedure, 1973, for quashing the proceedings against them in the said case. The offence alleged is defamation punishable under Section 500 of the Indian Penal Code, 1860, *(in short, 'IPC')*, which the accused allegedly committed in connection with the publication of news items in a leading Malayalam daily newspaper on 10.08.2017 and 11.08.2017. The petitioners herein are arraigned in the complaint filed before the Trial Court in their capacities as the Chief Editor and Printer and Publisher, respectively, of the above said newspaper.

2. The controversial news items published in that newspaper was about the act of the defacto complainant/first respondent, a CPM leader, manhandling a lady party worker belonging to the dalit community. In the first news item published on 10.08.2017, the name of the defacto complainant was not referred. However, in the second news item published on 11.08.2017, the name of the defacto complainant as well as his relationship as the husband of a State Minister, is seen revealed. The sum and substance of the first news



item contained in Annexure-A is that the lady who was subjected to physical assault by a Senior CPM leader of Mattannur Municipality had preferred complaints before the District Secretary and State Secretary of CPM against the above act of the defacto complainant. The altercations which followed between the husband of that lady, and the defacto complainant are also referred in that news item. The above news report concludes with the remark that there are other allegations as well against the defacto complainant about his failure to issue receipts for the huge amount obtained from many persons as election fund.

3. In the second news item shown in Annexure-B, it is stated that the Central leadership of the CPM had instructed the State leadership to initiate action against the defacto complainant in connection with the aforesaid assault upon that dalit lady. In addition to the details of the incident mentioned in the complaint of the aggrieved lady, it is stated in that news report that the State Secretary and the District Secretary of CPM did not take any action on the complaint preferred by that lady.

4. Alleging that the above news items published by that daily newspaper contained imputation which would harm the reputation of



the defacto complainant, a private complaint was preferred before the Jurisdictional Magistrate. The first accused arraigned in that complaint is said to be the local Reporter of that daily newspaper. The learned Magistrate, after recording the sworn statements of the defacto complainant and witnesses, issued summons to the petitioners herein and the first accused to appear before the said Court to answer the accusation under Section 500 IPC.

5. In the present petition, the petitioners would contend that the allegations levelled by the first respondent in the aforesaid complaint will not constitute the offence under Section 500 IPC. It is the further contention of the petitioners that they are not liable to be proceeded against for the alleged defamation suffered by the first respondent due to the publication of the news items.

6. Heard the learned counsel for the petitioners, the learned counsel for the first respondent and the learned Public Prosecutor representing the State of Kerala.

7. A reading of Annexure-C complaint preferred by the defacto complainant before the learned Magistrate would reveal that the grievance of the defacto complainant was that the first accused, who was the local Reporter of that daily newspaper, nurtured enmity



with the defacto complainant who was the Chairman of Mattannur Municipality, due to the steps taken by the Municipality against the above accused for illegal subletting of the room of Municipal building occupied by him. According to the defacto complainant, the first accused used to publish baseless allegations against the Municipal Administration and the defacto complainant due to his personal enmity with the defacto complainant. Annexures-A & B news items are said to have been published by the first accused to wreak vengeance upon the defacto complainant. It is further stated that the aforesaid news reports are totally baseless, and that the lady referred in those news items had issued a press note disputing the contents of those news reports. As against the present petitioners, the only allegation levelled in Annexure-C complaint is that the above news reports were published with the knowledge and responsibility of the petitioners, and since the first petitioner is the Chief Editor and the second petitioner is the Printer and Publisher of that newspaper, they have also committed the criminal act. The relevant portion of Annexure-C complaint in vernacular language is extracted hereunder for the sake of easy reference.



“രണ്ടാം മൂന്നാം പ്രതികളുടെ അറിവോടും ഉത്തരവാദിത്തത്തോടും കൂടിയാണ് ആ വാർത്തകൾ പ്രസിദ്ധീകരിച്ചിട്ടുള്ളത് എന്നതിനാലും രണ്ടാം പ്രതി മലയാള മനോരമ പത്രത്തിന്റെ ചീഫ് എഡിറ്ററും മൂന്നാം പ്രതി പ്രസാധകനുമായെന്നതിനാലും ഒന്നു മുതൽ മൂന്നുവരെ പ്രതികൾ കുറ്റകരമായി പ്രവർത്തിച്ചിട്ടുള്ളവരാണ്.”

8. The offence of defamation is defined in Section 499 of the IPC. The following are the ingredients required to establish the aforesaid offence

(i) Making or publishing an imputation concerning a person.

(ii) Such imputation must have been made by words either spoken or intended to be read or by signs or by visible representation

and

(iii) The said imputation must have been made with the intention of harming or with knowledge or having reason to believe that it will harm the reputation of the person concerned.

9. As far as the present case is concerned, there is absolutely nothing stated in Annexure-C complaint that the impugned news items were published at the instance of the petitioners herein who were having the intention to harm the reputation of the defacto complainant, or that the petitioners were having the knowledge or reasons to believe that the above news reports would harm the reputation of the defacto complainant. On the other hand, there is



only a casual and superficial statement in the complaint that the petitioners are also liable to be prosecuted since the news items were published with their knowledge and responsibility. The above vague and superficial allegation is not enough to establish that the petitioners were having the required *mens rea* for the commission of offence of defamation in connection with the publication of the aforesaid news items.

10. It is also pertinent to note that the news items published, as seen in Annexures-A & B, are nothing but a report about the complaint said to have been preferred by a lady party worker belonging to dalit community before the State and Central leadership of CPM, against the physical assault perpetrated upon her by the defacto complainant. There is absolutely no indication in the above reports that the incident mentioned in the above complaint of the lady were found to be true. The mere reporting of the particulars of the aforesaid complaint does not mean that the allegations in the said complaint were depicted as true and correct. In other words, the reports in the said newspaper about the complaint preferred by the lady against the defacto complainant cannot be termed as an act on the part of the persons concerned to publish an imputation which



would lower the dignity and reputation of the defacto complainant in the estimation of others. It is true that the defacto complainant has got a case that the lady mentioned in the aforesaid news reports had given a press note disputing the reports about the complaint so preferred by her. However, there is absolutely nothing on record brought-forth by the defacto complainant to show that there was such a denial on the part of the said lady about the complaints said to have been preferred by her against the defacto complainant. At any rate, the petitioners herein cannot be fastened with criminal liability under Section 500 IPC in the absence of the necessary factual foundation brought out through the complaint and the accompanying records to show that the impugned news items were published in consequence of their intention to cause harm to the reputation of the defacto complainant, or with the knowledge of the petitioners that the said news items would result in harm being caused to the reputation of the defacto complainant.

11. It is well-settled that in the absence of the necessary materials to show that there was *mala fide* intention on the part of the accused to tarnish the image of the defacto complainant, no offence under Section 500 IPC could be made out against the publishers of a



newspaper who are arraigned as the accused in that complaint. The mere publication of an imputation by itself may not constitute the offence of defamation unless such imputation has been made with the intention, knowledge or belief that such imputation will harm the reputation of the person concerned. The proposition of law in this regard had been laid down by this Court in **V.S. Achuthanandan v. Kamalamma [2008 (2) KHC 562]** and **Maman Mathew v. Radhakrishna M.N.[2007 (4) KHC 502]**. Thus, the prosecution initiated against the petitioners herein before the Judicial First Class Magistrate Court, Mattannur, in C.C.No.1392/2017 can only be termed as an abuse of process of law. Therefore, the prayer in this petition to quash the proceedings against them has to be necessarily allowed.

In the result, the petition stands allowed. The proceedings against the petitioners/accused Nos. 2&3 in C.C.No.1392/2017 on the files of the Judicial First Class Magistrate Court, Mattannur, are hereby quashed.

(Sd/-)
G. GIRISH, JUDGE

DST



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Crf.M.C.No.7420/2018

-:10:-

PETITIONER ANNEXURES

- ANNEXURE A** TRUE COPY OF THE NEWS ITEM PUBLISHED ON
10.08.2017 IN MALAYALA MANORAMA.
- ANNEXURE B** TRUE COPY OF THE NEWS ITEM PUBLISHED ON
11.08.2017 IN MALAYALA MANORAMA.
- ANNEXURE C** TRUE COPY OF THE COMPLAINT LODGED BY THE 1ST
RESPONDENT BEFORE THE JUDICIAL FIRST CLASS
MAGISTRATE MATTANUR AS CMP 3230/17 DATED
14.08.2017.
- ANNEXURE D** TRUE COPY OF THE ORDER TAKING COGNIZANCE AND
ISSUED OF PROCESS IN CMP NO.3230/2017 DATED
19.10.2017 ON THE FILE OF THE JFCM, MATTANUR.