



CRL.MC NO. 7075 OF 2025

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.S.DIAS

WEDNESDAY, THE 11TH DAY OF MARCH 2026 / 20TH PHALGUNA, 1947

CRL.MC NO. 7075 OF 2025

CRIME NO.1075/2025 OF Ernakulam Central Police Station,

Ernakulam

PETITIONER/ACCUSED:

SHWETHA MENON,
AGED 51 YEARS
W/O.SREEVALSAN MENON ,5F, ACE NIMBUS,NIVYA NAGAR,LFC
ROAD, KALOOR, ERNAKULAM, PIN - 682017

BY ADVS.
SRI.UNNI SEBASTIAN KAPPEN
SRI.M.REVIKRISHNAN

RESPONDENTS/RESPONDENTS/STATE & DE FACTO COMPLAINANT:

- 1 STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM, PIN - 682031
- 2 MARTIN MENACHERRY,
AGED 40 YEARS
S/O VARGHESE, GENERAL SECRETARY,NEWS PAPER
ASSOCIATION OF INDIA KERALA REGION,, THOPPUMPADI
ERNAKULAM (ADDRESS AS SHOWN IN ANNEXURE-1 COMPLAINT),
PIN - 682005



CRL.MC NO. 7075 OF 2025

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BY ADVS.
PUBLIC PROSECUTOR
SRI.V.R.MANORANJAN (MUVATTUPUZHA)
DIRECTOR GENERAL OF PROSECUTION
P.NARAYANAN, SPL. G.P. TO DGP AND ADDL. P.P.
SHRI.SAJJU.S., SENIOR G.P.

OTHER PRESENT:

SR PP SMT SEETHA S

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
11.03.2026, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**“C.R”**Dated this the 11th day of March, 2026**ORDER**

To malign the character of a woman without any foundation or substance is a pernicious form of social violence, for while it is easily uttered, the stigma it leaves behind is often indelible.

2. The petitioner, who is said to be a national cine actor, former Miss India and a candidate to the post of President to the Association of Malayalam Movie Artists, has approached this Court, invoking its inherent jurisdiction, to quash the First Information Report and all further proceedings in Crime No. 1075/2025 registered by the Ernakulam Central Police Station, alleging that the petitioner has committed the offences punishable under Sections 3 and 5 of the Immoral Traffic (Prevention) Act, 1956 ('ITP Act', for brevity) and Section 67 (A) of the



Information Technology Act, 2000 ('IT Act', for short). The FIR has been registered on the basis of a private complaint (Annexure-1) filed by the second respondent (complainant) before the Court of Chief Judicial Magistrate, Ernakulam ('learned Magistrate'), who had forwarded the complaint to the police under Section 175(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS).

3. The gravamen of the allegation in the complaint is summarised as follows:

The complainant, who claims to be a social worker and journalist, alleges that the accused (petitioner) is a cine actress who acts in a vulgar and nude manner in films and advertisements, and uploads such content on pornographic websites and social media platforms, projecting herself as a porn star for financial gain. The accused also circulates pornographic videos involving minor girls, participates in sex marketing, and provides contact numbers to lure customers. The accused had also given an interview



regarding her advertisement for condoms, which has 30 crore viewers. The explicit photographs and X-rated videos of the accused are available online. There is an organised network that operates the online content, with the knowledge, consent, and participation of the accused. The accused's actions are destroying the society. The complainant has seen the accused's videos. This Court may order the removal of the obnoxious online content for the benefit of society. Though complaints were submitted to the jurisdictional police and the City Police Commissioner, no action has been taken in the matter. The accused has committed the offences under Section 67A of the IT Act and Sections 3 and 5 of the IMT Act.

4. I have heard Sri. M. Revikrishnan, the learned counsel appearing for the petitioner and Smt. Seetha. S, the learned Public Prosecutor. Although the notice was served on the second respondent, he has not appeared.

5. The learned counsel for the petitioner submits that



the allegations in the complaint and the FIR, even if accepted at their face value, do not disclose the commission of any offence. The complaint is a frivolous and malicious litigation filed with an oblique intention of preventing the petitioner from contesting the election to the post of president of the Association of Malayalam Movie Artists, which was held on 15.08.2025. The timing of the filing of the complaint on the last date for the withdrawal of nomination for the election clearly reveals the mala fide intention of the second respondent. The learned Counsel further submits that the learned Magistrate, unmindful of the vexatious nature of the complaint and without any application of mind, has mechanically forwarded the complaint to the police, who, in turn, registered the FIR. The petitioner has earned a good name and reputation in the Society and leads a happy family life. The complaint does not contain the rudimentary ingredients to attract the offences alleged. Hence, the complaint and the FIR may be



quashed.

6. The learned Public Prosecutor, though not seriously opposing the Criminal Miscellaneous Case ('Crl. M.C', for short), submits that the investigation is only at the nascent stage. Therefore, this Court may be slow in quashing the complaint to enable the investigating officer to complete the investigation.

7. When the Crl. M.C came up for admission, this Court had called for a report from the learned Magistrate to ascertain the procedure that was followed in forwarding the complaint to the police.

8. The learned Magistrate has reported that, as the complaint contains an allegation regarding child pornography, the scope of the enquiry by the court is limited and, therefore, the complaint was forwarded to the police for investigation.

9. The specific allegation in the complaint is that the petitioner has committed the offences under Sections 3 and



5 of the ITP Act and Section 67(A) of the IT Act.

10. In order to appreciate the tenability of the allegations, it is necessary to examine Sections 3 and 5 of the Immoral Traffic (Prevention) Act, 1956, which reads as follows:

“3. Punishment for keeping a brothel or allowing premises to be used as a brothel.—(1) Any person who keeps or manages, or acts or assists in the keeping or management of, a brothel shall be punishable on first conviction with rigorous imprisonment for a term of not less than one year and not more than three years and also with fine which may extend to two thousand rupees and in the event of a second or subsequent conviction, with rigorous imprisonment for a term of not less than two years and not more than five years and also with fine which may extend to two thousand rupees.

(2) Any person who—

(a) being the tenant, lessee, occupier or person in charge of any premises, uses, or knowingly allows any other person to use, such premises or any part thereof as a brothel, or

(b) being the owner, lessor or landlord of any premises or the agent of such owner, lessor or landlord, lets the same or any part thereof with the knowledge that the same or any part thereof is intended to be used as a brothel, or is wilfully a party to the use of such premises or any part thereof as a brothel,

shall be punishable on first conviction with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees and in the event of a second or subsequent conviction, with rigorous imprisonment for a term which may extend to five years and also with fine. 8

[(2A) For the purposes of sub-section (2), it shall be presumed, until the contrary is proved, that any person



referred to in clause (a) or clause (b) of that sub-section, is knowingly allowing the premises or any part thereof to be used as a brothel or, as the case may be, has knowledge that the premises or any part thereof are being used as a brothel, if,—

(a) a report is published in a newspaper having circulation in the area in which such person resides to the effect that the premises or any part thereof have been found to be used for prostitution as a result of a search made under this Act; or

(b) a copy of the list of all things found during the search referred to in clause (a) is given to such person.]

(3) Notwithstanding anything contained in any other law for the time being in force, on conviction of any person referred to in clause (a) or clause (b) of sub-section (2) of any offence under that sub-section in respect of any premises or any part thereof, any lease or agreement under which such premises have been leased out or are held or occupied at the time of the commission of the offence, shall become void and inoperative with effect from the date of the said conviction.

5. Procuring, inducing or taking [person] for the sake of prostitution.— (1) any person who—

(a) procures or attempts to procure a [person], whether with or without his consent, for the purpose of prostitution; or

(b) induces a [person] to go from any place, with the intent that he may for the purpose of prostitution become the inmate of, or frequent, a brothel; or

(c) takes or attempts to take a [person], or causes a [person] to be taken, from one place to another with a view to his carrying on, or being brought up to carry on prostitution; or

(d) causes or induces a [person] to carry on prostitution;

[shall be punishable on conviction with rigorous imprisonment for a term of not less than three years and not more than seven years and also with fine which may extend to two thousand rupees and if any offence under this sub-section is committed against the will of any person, the



punishment of imprisonment for a term of seven years shall extend to imprisonment for a term of fourteen years:

Provided that if the person in respect of whom an offence committed under this sub-section,—

(i) is a child, the punishment provided under this sub-section shall extend to rigorous imprisonment for a term of not less than seven years but may extend to life; and

(ii) is a minor, the punishment provided under this sub-section shall extend to rigorous imprisonment for a term of not less than seven years and not more than fourteen years;]

(3) An offence under this section shall be triable—

(a) in the place from which a 1[person] is procured, induced to go, taken or caused to be taken or from which an attempt to procure or take such 1[person] is made; or

(b) in the place to which he may have gone as a result of the inducement or to which he is taken or caused to be taken or an attempt to take him is made.

11. A plain reading of Sections 3 and 5 of the Act unambiguously demonstrates that the above offences are attracted only when there is an allegation that the accused has either maintained a brothel, permitted her premises to be used as a brothel or has procured, induced or taken any person for the sake of prostitution.

12. Upon a careful examination of the allegations in the complaint, this Court finds that there is not a whisper in the complaint suggesting that the petitioner is running a brothel or allowing her premises to be used as a brothel, or



is procuring, inducing or taking any person for prostitution. The complaint only contains a vague and bald allegation that the petitioner is involved in 'sex marketing'. Such a sweeping and unsubstantiated allegation, devoid of any material or prima facie proof, is insufficient to attract the above offences under the ITP Act.

13. In the context of the allegations in the complaint, it is also necessary to refer to Section 67A of the Information Technology Act, 2000, which reads thus:

"67A. Punishment for publishing or transmitting of material containing sexually explicit act, etc., in electronic form. –

Whoever publishes or transmits or causes to be published or transmitted in the electronic form any material which contains sexually explicit act or conduct shall be punished on first conviction with imprisonment of either description for a term which may extend to five years and with fine which may extend to ten lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to seven years and also with fine which may extend to ten lakh rupees".

14. Section 67A criminalises publication, transmission, or causing to publish or transmit - in electronic form - any material that contains a sexually explicit act or conduct.



Though the three expressions “sexually explicit”, “act” or “conduct” are open - textured and are to be understood in the broader context of obscenity, the expressions are to be seen in the context of '*obscenity*' as provided in Section 67 of the Act. Therefore, Sections 67A and 67 have to be co-jointly read. The mere existence of content with sexual connotations does not automatically attract a penal offence. A sexually explicit act or depiction may not necessarily be lascivious or intended to appeal to prurient interests. In certain contexts, the effects of an artistic expression may be viewed differently. The Hon'ble Supreme Court has laid down the principles in a plethora of precedents. (Read the decision of the Hon'ble Supreme Court in **Apoorva Arora v. State (Govt of NCT of Delhi)** – 2024 KHC 6153).

15. In **S. Khushboo v. Kanniammal** (2010 (5) SCC 600), the Hon'ble Supreme Court, while considering the question of quashing a FIR filed against the accused for committing an offence under S.292 of the Indian Penal Code, on the



allegation that accused gave an interview in a magazine to socially accept premarital sex, especially in live - in relationships, and cautioned women to take adequate protection to prevent unwanted pregnancies and sexually transmitted infections, held that no offence was made out under S.292 as the content was not lascivious (i.e., expressing or causing sexual desire); does not appeal to the prurient interest (i.e., excessive interest in sexual matters); and does not have the effect of tending to deprave and corrupt persons who are likely to read, hear, or see the material. It was held that obscenity must be gauged with respect to contemporary community standards that reflect the sensibilities as well as the tolerance levels of an average reasonable person. Accordingly, the FIR was quashed.

16. Now coming back to the case at hand, there are no allegations in the complaint that the petitioner has published or transmitted in electronic form any material that contains a sexually explicit act. The only bald allegation



is that, it is with the petitioner's knowledge, consent and participation that some pornography sites are functioning; there is not a scrap of paper to prima facie prove the wild and reckless imputation. Undisputedly, the three films and the advertisement referred to in the complaint, in which the petitioner had acted, were produced and exhibited after obtaining the requisite statutory certifications and permissions from the competent authorities. No statutory authority has raised an objection that the films or advertisement of the petitioner published or transmitted in electronic form contain a sexually explicit act or conduct. There is also no material or iota of proof to prima facie establish that the online websites are managed with the petitioner's knowledge or participation, other than for the second respondent's solitary allegation in the complaint.

17. This Court finds considerable force in the submission of the learned counsel for the petitioner that the complaint was filed with the sole intention of stalling the



petitioner from contesting for the post of President in the Association of Malayalam Movie Artists, that too on the eve of withdrawal of nominations. The timing of the filing of the complaint strongly indicates its mala fide and vexatious nature.

18. It is often said that when a woman attains name, fame, and recognition in public life, attempts to defeat her on the basis of reasons, logic, or merit may turn difficult. Then, social shaming is the frequently deployed weapon. When a society focuses more on a woman's image than her achievements, it exposes its own intellectual poverty. Progressive societies evaluate people on the basis of their actions and contributions; regressive societies resort to slander, character assassination and moral policing. The empowerment of women does not mean that they should be made saints, but recognising their individuality, aspirations and accomplishments with dignity and fairness. The society that tolerates the vilification of a woman out of envy or



malice is nothing but an embodiment of injustice.

19. In the celebrated decision in **State of Haryana and others v. Bhajan Lal and others** [(1992) Supp (1) SCC 335], the Hon'ble Supreme Court has laid down the principles to quash a criminal proceeding by exercising the inherent powers of this Court under Section 482 of the Code of Criminal Procedure/528 of the BNSS. The salient principles to quash a complaint are, if the allegations in the complaint are taken at their face value, they do not attract the offence; or, if the proceedings are manifestly attended with mala fides or an intention to wreak vengeance, the inherent power can be exercised.

20. In **Inder Mohan Goswami and Another v. State of Uttaranchal and others** [(2007) 12 SCC 1], the Hon'ble Supreme Court has held that the Courts must ensure that criminal prosecution is not used as an instrument of harassment or for seeking private vendetta or with an ulterior motive to pressurise the accused.



21. Similarly, in **Vishal Noble Singh v. State of Uttar Pradesh and Another** [(2024) SCC OnLine SC 1680], the Hon'ble Supreme Court has observed that in recent years, the machinery of criminal justice is being misused by certain persons for their vested interests and for achieving their oblique motives and agenda. The Courts must be vigilant against such tendencies and ensure that acts of omission and commission that adversely affect the fabric of our society are nipped in the bud.

22. After carefully analysing the allegations in the complaint, the FIR, the materials on record and the law on the point, I am convinced that if the allegations in the complaint and the FIR are taken on their face value, the same would not attract the offences alleged against the petitioner, and the prosecution has been lodged by the second respondent with the ulterior motive of tarnishing the name and reputation of the petitioner. Thus, I am satisfied that this is a fit case to exercise the inherent



powers of this Court under Section 528 of the BNSS.

In the above conspectus, I allow the Crl. M.C., by quashing Annexure 1 complaint, Annexure 2 FIR and all further proceedings in Crime No. 1075/2025 registered by the Ernakulam Central Police Station, as against the petitioner.

SD/-

C.S.DIAS, JUDGE

mtk/rmm



CRL.MC NO. 7075 OF 2025

APPENDIX OF CRL.MC NO. 7075 OF 2025

PETITIONER ANNEXURES

- Annexure 1 TRUE COPY OF THE PRIVATE COMPLAINT
PREFERRED BY THE 2ND RESPONDENT BEFORE THE
CHIEF JUDICIAL MAGISTRATE, ERNAKULAM AS
CRL.M.P NO:6667/2025
- Annexure 2 A TRUE COPY OF THE FIR IN CRIME
NO:1075/2025 OF CENTRAL POLICE STATION
ERNAKULAM

RESPONDENT ANNEXURES

- Annexure-R3 (1) TRUE COPY OF THE REPRESENTATION DATED
08/08/2025 SUBMITTED BY THE APPLICANT
BEFORE DG OF POLICE
- Annexure-R3 (2) TRUE COPY OF THE ORDER IN CRIMINAL APPEAL
NO. 4625/2024 ARISING OUT OF SLP (CRIMINAL)
NO. 13463/2024 DATED 19/11/2024, PASSED BY
THE HON'BLE SUPREME COURT OF INDIA