



CRL.MC No. 139 of 2023

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

THURSDAY, THE 13<sup>TH</sup> DAY OF FEBRUARY 2025 / 24TH MAGHA, 1946

CRL.MC NO. 139 OF 2023

CRIME NO.282/2015 OF Ernakulam North Police Station,

Ernakulam

AGAINST THE ORDER/JUDGMENT DATED IN SC NO.388 OF  
2019 OF DISTRICT COURT & SESSIONS COURT, ERNAKULAM ARISING  
OUT OF THE ORDER/JUDGMENT DATED IN SC NO.388 OF 2019 OF  
DISTRICT COURT & SESSIONS COURT, ERNAKULAM

PETITIONER/S:

SOBHANAKUMARI  
AGED 52 YEARS  
W/O SHAJU, KUDAKKARA HOUSE, E DAPADY P.O.,  
BHARANANGANAM, PIN - 686578

BY ADVS.  
MADHUSUDANAN P R  
VIJAYAN MANNALY (V-226)  
HASEENA KUNJOONJU (K/569/2015)

RESPONDENT/S:

1 STATE OF KERALA



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REPRESENTED BY THE THE PUBLIC PROSECUTOR, HIGH  
COURT OF KERALA, ERNAKULAM, PIN - 682031

2 2. THE ASSISTANT COMMISSIONER OF POLICE  
CITY POLICE, ERNAKULAM,, PIN - 682032

3 REMA A.G  
AGED 50 YEARS  
W/O GOPI, MAPPIRANGAL VEEDU, NEAR MES EASTERN  
SCHOOL, ELOOR,, PIN - 683501

BY ADVS.  
Shiras Aliyar  
P.M.MUJEEB REHIMAN(M-479)

OTHER PRESENT:

PP JIBU T S

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION  
ON 13.02.2025, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:



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**'C.R.'****ORDER****Dated this the 13<sup>th</sup> day of February, 2025**

The sole accused in S.C.No.388/2019 on the files of the Special Court, Ernakulam, as per the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, (for short SC/ST (POA) Act), arising out of Crime No.282/2015 of Ernakulam Town North Police Station, has filed this Crl.M.C. under Section 482 of the Code of Criminal Procedure and the prayer is as under;

to quash Annexure A1 Final Charge against the petitioner in S.C.No.388/2019 pending before the Sessions Court, Ernakulam by setting aside the proceedings initiated in Annexure-A5.

2. Heard the learned counsel for the petitioner, the learned counsel appearing for the 3<sup>rd</sup> respondent, the



defacto complainant and also the learned Public Prosecutor, representing the State of Kerala and the Assistant Commissioner of Police, Kochi City Police Station, Ernakulam. Perused the records placed by the learned counsel for the petitioner and the case diary as such produced by the learned Public Prosecutor.

3. In this matter, FIR was registered on 23.02.2015 alleging commission of offences punishable under Section 294(b) of the Indian Penal Code as well as under Section 3(1)(r) and (s) of SC/SC (POA) Act by the accused, pertaining to an occurrence on 17.12.2013, after one year and three months. The precise allegation is that on 17.12.2013, when the 3<sup>rd</sup> respondent, a member of Scheduled Caste Pulaya Community reached Women Police Station, Ernakulam in connection with a complaint lodged by her alleging that one



Maya, the wife of Rajendran was liable to pay Rs.6 lakh obtained by Maya's husband Rajendran. Maya and the accused herein were also reached the Police Station in this connection. Therefore, the 3<sup>rd</sup> respondent was sent back with direction to settle the dispute through process of court. At about 12.30 hours, when the 3<sup>rd</sup> respondent, a member of Scheduled Caste Community came out, the accused, who is not a member of Scheduled Caste or Scheduled Tribe Community abused her and commented that “കണ്ട പുലക്കുള്ളികൾ കള്ളക്കേസും കൊടുത്ത് വന്നേക്കുകയാണ് കാൾ പറ്റിച്ചു മേടിക്കാൻ”. On this premise, the prosecution case is that the 3<sup>rd</sup> respondent was insulted and intimidated with intention to humiliate her within public view by calling her caste name, by the accused. Earlier Maya also was arrayed as the 2<sup>nd</sup> accused.

4. In this matter, initially Sri.S.T. Suresh Kumar,



Assistant Commissioner of Police conducted investigation and on completion of investigation, he filed Annexure-A3 Final Report on 14.11.2015 reporting that the allegations are false and accordingly, he requested the court to record the same and close the case. After filing of the said report, during 2017, the 3<sup>rd</sup> respondent filed complaint before the Director General of Police, in turn the same was forwarded to the Superintendent of Police, Kochi City and thereby, the case was ordered to be further investigated. Thereafter, Annexure A1 Final Report was filed on 25.11.2017 by the then Assistant Commissioner of Police, Ernakulam alleging that the accused committed the above offences.

5. Now Annexure A1 Final Report, which negated Annexure A3 Final Report is under challenge at the instance of the petitioner, who is the sole accused therein.



According to the learned counsel for the petitioner, even though as per Annexure A3, the earlier Investigating Officer investigated the crime and found that the allegations are false, thereafter even without any effective further investigation or without recording statement of any other witnesses, relying on the earlier statements and records, the present Investigating Officer filed Annexure A1 without any basis. It is pointed out that the petitioner went abroad in search of a job after submission of Annexure A3 Final Report and all the subsequent proceedings were in the absence of the petitioner and the petitioner was totally unaware of the proceedings. It is also pointed out that no fresh evidence or witness statements, recorded to file Annexure A1 report in deviation from Annexure A3. It is pointed out that the 3<sup>rd</sup> respondent lodged a complaint before the Women Police Station,



Ernakulam and when the police intervened and sent back the 3<sup>rd</sup> respondent with advice to address her grievance in the matter of Rs.6 lakh claimed against Maya, through process of court, in order to squeeze the petitioner and Maya who is stated as 2<sup>nd</sup> accused, initially, for return of the money due to the petitioner from the husband of Maya, this false case is foisted without any substance. Therefore, the quashment prayer in the above circumstances is liable to be allowed.

6. Resisting these contentions, the learned counsel for the 3<sup>rd</sup> respondent would submit that as per the FIS recorded as that of the 3<sup>rd</sup> respondent on 23.02.2015 and as per the subsequent 161 statement recorded thereafter by the SI of Police also, there is specific allegation that the accused abused and intimidated the 3<sup>rd</sup> respondent by calling her caste name within public view. Therefore, the offences are





made out, *prima facie*. Since the earlier Investigating Officer wrongly filed final report treating the case as false, later, on the basis of further investigation, Annexure A1 final report was filed finding the truth of the allegations. According to the learned counsel for the defacto complainant, since the prosecution records *prima facie* show the ingredients to attract offences under Section 294(b) of the Indian Penal Code as well as under Section 3(1)(r) and (s) of SC/SC (POA) Act, quashment cannot be allowed and the matter must go for trial.

7. The learned Public Prosecutor also supported the contention of the 3<sup>rd</sup> respondent and opposed quashment.

8. In this matter, the occurrence is on 17.12.2013, but the FIR was registered on 23.02.2015 on



recording the statement of the 3<sup>rd</sup> respondent on 23.02.2015. In the statement, the allegation of use of abusive words by calling the caste name of the 3<sup>rd</sup> respondent is stated. In the FI Statement, the 3<sup>rd</sup> respondent stated that in this regard, she lodged complaint before the SC/ST Commissioner, Thiruvananthapuram and City Police Commissioner, Ernakulam, but no action taken and thereafter, she lodged complaint in the Adalat held at Traffic Police Station, Ernakulam. In Annexure A3 Final Report, Sri.S.T.Suresh Kumar, Assistant Police Commissioner stated that the witnesses who gave statements supporting the case of the 3<sup>rd</sup> respondent were her relatives, and later when the statements of CPO's and WCPO's attached to Women Police Station and Ernakulam Town North Police Station were recorded, they did not support such an occurrence. Accordingly, it was found



by Sri.S.T.Suresh Kumar that when the 3<sup>rd</sup> respondent noticed that Rs.6 lakh due to her would not be realised from Maya, a false case alleging calling of caste name and abuse was filed against Maya and the petitioner and accordingly, the same was reported as a false case.

9. On perusal of the FIS, the persons who witnessed the occurrence as stated by the defacto complainant are Mini, the sister of the 3<sup>rd</sup> respondent, Mani, the relative of the 3<sup>rd</sup> respondent and one Sudheer.

10. In Annexure A1 report, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> witnesses are Mini, Mani and Sudheer. Maya also shown as the 5<sup>th</sup> witness.

11. Annexure A1 report was filed by Sri.K.Lalji, Assistant Commissioner of Police, Kochi City on 25.11.2017. Coming to the witnesses in the final report (Annexure A1),



Mini is none other than the brother's wife of the 3<sup>rd</sup> respondent. Mani also is a person, who, in fact, residing along with Rema and Mini. Sudheer who is cited as the 4<sup>th</sup> witness in Annexure A1 Final Report given statement to the police initially itself. According to Sudheer, he reached Ernakulam Town North Police Station on 17.12.2023 to meet Sebastian, the Sub Inspector of Police in connection with the surrender of a vehicle before Ettumanoor Police Station. But, as per Annexure A3 report, the Investigating Officer stated that Sebastian, the Sub Inspector of Police given statement that Sudheer did not meet him on the date of occurrence. Thus Sri.S.T. Suresh Kumar disbelieved the statement of Sudheer while filing Annexure A3 report.

12. Tracing the prosecution records with the aim to find whether the prosecution allegations are true or the



same is an attempt to implicate the petitioner in a serious offence under the SC/ST (POA) Act, it is inevitable to refer yesteryear of the case. Thus it is perceptive that the 3<sup>rd</sup> respondent's husband died 15 years before and she had maintained a relationship with one Rajendran, the husband of Maya, when the relationship between Maya and Rajendran was in good terms. During continuance of the relationship, 3<sup>rd</sup> respondent gave financial assistance to Rajendran by providing security of her property for availing Rs.6 lakh as loan by Rajendran. Thereafter, Rajendran died without clearing the loan liability and the property was put on sale by the Bank in order to get back the money. Then the defacto complainant/3<sup>rd</sup> respondent lodged complaint before the Chief Minister and the Police but she could not get back the money. Thereafter, in connection with the same complaint,



the parties arrived at the Women Police Station on 17.12.2013. After having discussion with the officials of Women Police Station, Police advised the 3<sup>rd</sup> respondent to address her grievance through court, since the allegation is non-payment of money. Thereafter, the present allegation was raised as one occurred in the premise of the Police Station. Even though in the FI Statement given by the defacto complainant on 23.02.2015 in relation to an occurrence on 17.12.2023 regarding filing of complaint before the SC/ST Commissioner, Thiruvananthapuram and the District Police Chief, no such complaints form part of the final report or the case diary. In Annexure A1 final report, the Investigating Officer stated about filing complaint by the 3<sup>rd</sup> respondent to get back Rs.6 lakh, though no reference regarding filing of complaint in the matter of commission of SC/ST (POA) Act



offences. Thus *prima facie* crime was registered at a belated stage.

13. Coming to the offence under Section 3(1)(r) and (s) of SC/ST (POA) Act, the same provides as under;

(r) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;

(s) abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view;

14. No doubt, intentionally insulting or intimidating a member of a Scheduled Caste or a Scheduled Tribe in any place within public view with intent to humiliate her by a person who does not belong to Scheduled Caste or Scheduled Tribe Community is an offence under Section 3(1)(r) of SC/ST (POA) Act. Similarly, abusing any member of a



Scheduled Caste or a Scheduled Tribe by calling her caste name in any place within public view by a person who does not belong to Scheduled Caste or Scheduled Tribe Community is an offence under Section 3(1)(s) of SC/ST (POA) Act. Here the allegation is confined to the use of calling abusive words and calling the caste name of the defacto complainant, as extracted hereinabove.

15. As already pointed out, this case emanated after sending back the 3<sup>rd</sup> respondent by the Women Police to explore remedy through court in the matter of return of Rs.6 lakh due to her from the husband of Maya (accused is the brother's wife of Maya).

16. Before conclusion of the discussion, it is felicitous to address the legislative intent behind SC/ST (POA) Act. Undeniably, the intention is to protect the interest of members of Scheduled Caste and Scheduled Tribe





Communities from exploitation and atrocities at the instance of the other caste members. No doubt, atrocities against members of Scheduled Castes and Scheduled Tribes communities are not uncommon and the SC/ST (POA) Act is a progressive legislature aimed to arrest atrocities against them. Therefore, genuine cases would require strict action as per law. At the time misuse of the provisions of SC/ST (POA) Act by litigants having evil or wicked thoughts or being spiteful is the menace now one could notice from various angles. To wit false implication of poor person within the sphere of SC/ST (POA) Act offence with intention to pressurize them with the threat of arrest, detention, and also harsh punishment to settle a score or to compel them to heed for the illegal and illogical demands of the complainant is a tragic after math. Therefore, the misuse of the provisions of SC/ST (POA) Act also to be taken note of. So while dealing with cases under the SC/ST (POA) Act, the



investigating agencies and the courts have a very vital role to dissect truth from false and to check fallacy of the allegations. When not accomplishing the aim by lodging complaints in relation to some claims before the police or on getting negative results in litigation or when other pending litigations in between the parties, before raising the allegations as to commission of offence/offences under the SC/ST (POA) Act by one among the parties in rivalry the same is a strong reason to see the falsity of the allegations. Once the facts of the case with its yesteryear events, postulate false implication a court exercising power under Section 482 of the Code of Criminal Procedure and Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 shall not hesitate to do the same. While registering crimes in the said circumstances the investigating officers also must apply their mind to avoid false implication of innocent victims in serious offences.



17. Keeping these aspects in mind, scanning the case in *toto*, it could be gathered that the initial report filed by the Investigating Officer in Annexure A3 is substantiated by materials and no new materials collected during further investigation by the subsequent Investigating Officer, who filed Annexure A1 Final Report. Further, 3<sup>rd</sup> respondent made the allegation herein in her attempt to get back Rs.6 lakh without opting legal remedies as per law. Thus the allegation are prima facie not believable.

18. The aftermath of the above discussion is that, the contention raised by the petitioner with regard to the falsity of the allegations is prima facie made out, therefore, quashment is liable to succeed.

19. In the result, this petition stands allowed. All further proceedings against the petitioner pursuant to Annexure A1 Final Report in S.C.No.388/2019 on the files of



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the Special Court, Ernakulam stand quashed.

Registry is directed to forward a copy of this order to the trial court for information and further steps.

*Sd/-*

**A. BADHARUDEEN  
JUDGE**

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APPENDIX OF CRL.MC 139/2023

PETITIONER ANNEXURES

- |             |  |
|-------------|--|
| Annexure A1 | THE CERTIFIED COPY OF THE FINAL CHARGE<br>DATED 25.11.2017 OF CRIME NO. 282/15 OF<br>ERNAKULAM TOWN NORTH POLICE STATION                                       |
| Annexure A2 | THE TRUE COPY OF THE FIR ALONG WITH THE<br>FI STATEMENT OF THE 3RD RESPONDENT IN<br>CRIME NO. 282/15 OF ERNAKULAM TOWN<br>NORTH POLICE STATION DATED 23.2.2015 |
| Annexure A3 | THE TRUE COPY OF THE REPORT DATED<br>14.11.2015 SUBMITTED BY THE ASSISTANT<br>POLICE COMMISSIONER REPORTING THE CASE<br>AS '&#8216;FALSE'                      |
| Annexure A4 | THE PASSPORT COPY OF THE PETITIONER  |
| Annexure A5 | THE PROCEEDINGS OF THE LEARNED SESSIONS<br>JUDGE FROM 10.6.2019 ONWARDS  |