



2024:KER:42293

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

TUESDAY, THE 18TH DAY OF JUNE 2024 / 28TH JYAISHTA, 1946

CRL.MC NO. 2016 OF 2023

CRIME NO.137/2019 OF MANNUTHY POLICE STATION, THRISSUR

CC NO.541 OF 2019 OF JUDICIAL MAGISTRATE OF FIRST CLASS -III, THRISSUR

PETITIONERS:

- 1 JITHA SANJAY
AGED 35 YEARS
W/O.SANJAY, PAKKATH HOUSE, WEST MANGAD, PORKULAM VILLAGE,
TRISSUR -680542.
- 2 VISHNU RAVISHANKAR,
AGED 28 YEARS
S/O.RAVISANKAR, SRAMBIKKAL HOUSE, PAALAYUR, CHAVAKKAD
TRISSUR-680508.
- 3 ANEESH E
AGED 31 YEARS
S/O.UPENDRAN, EACHARATH HOUSE, KOLANGAATTUKARA,
CHOOLISSERI VILLAGE, TRISSUR-680541.
- 4 AKHIL P T
AGED 25 YEARS
S/O.TYAGOLBHAVAN, PALLATH HOUSE, CHAAMAKKAALA DESOM,
CHENDRAPINNI VILLAGE, TRISSUR-680687.
- 5 ARUN KUMAR K M
AGED 29 YEARS
S/O.MUKUNDAN, KUNİYATH HOUSE, AVINISSERY TRISSUR-680306.
- 6 SUVI C S
AGED 33 YEARS
S/O.SATHYAN C M, CHAVARATTIL HOUSE, ANJUR MUNDUR,
THRISSUR-680541.
- 7 ATHIRA M
AGED 32 YEARS
W/O.KRISHNA KUMAR, THOTTAPILLY HOUSE, KURUMAAL DESOM,
VELUR VILLAGE, TRISSUR-680601.
- 8 SMITHA KRISHNAN
AGED 38 YEARS



W/O.RAJESH T K, KUNDEPARAMBIL HOUSE, UMA NAGAR,
KOLAZHY P.O, KOLAZI, THRISSUR-680010 PRESENTLY
RESIDING AT THOTTIPARAMBIL HOUSE, NGO QUARTERS,
AYYANTHOLE DESOM, TRISSUR 680003.

9 SANDHYA C.P. ,
AGED 39 YEARS
W/O.SHIVA KUMAR, PALLIPAM MADATHIL HOUSE,
MUTHARTHIKKARA, PARAPPUKKARA, TRISSUR-680310.

10 JASINDHA C C
AGED 45 YEARS
W/O.PATHROSE, THERMADOM HOUSE, THALAKKOTTUKARA
DESOM, CHIRANELLOOR VILLAGE, THRISSUR-680501.

BY ADVS.
C.K.ANWAR
K.S.SUMEEESH
ASWATHI VAKKAYIL

RESPONDENTS:

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

2 MUMTAZ
AGED 47 YEARS
W/O.SHAUKATH ALI, THAZHATHU PARAMBIL HOUSE,
KAALATHOD KUTTICHIRA,TRISSUR-680655

R1 BY SR.PUBLIC PROSECUTOR SRI.RENJIT GEORGE

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
06.06.2024, THE COURT ON 18.6.2024 PASSED THE FOLLOWING:

**CR****ORDER**

Dated this the 18th day of June, 2024

This Criminal Miscellaneous Case has been filed under Section 482 of the Code of Criminal Procedure, to quash Annexure A9 Final Report and all further proceedings in C.C.No.541/2019 on the files of the Judicial First Class Magistrate Court-III, Thrissur.

2. Heard the learned counsel for the petitioners and the learned Public Prosecutor. I have perused the relevant records.

3. In this matter, the prosecution case is that, the accused herein, formed into an unlawful assembly, with knowledge that they are all members of the said assembly, in prosecution of their common object and with intention to abuse and threaten the de facto complainant, due to animosity arose out of non-payment of loan availed by the husband of the de facto complainant from Citizens Co-



operative Society, Thrissur District. Then, the accused criminally trespassed upon the courtyard of the house of the de facto complainant at 10.00 a.m. on 24.2.2019, abused the de facto complainant and threatened the de facto complainant and her husband, with dire consequences. This is the base on which, prosecution alleges commission of the offences punishable under Sections 143, 147, 447, 294(b), 506(i) and Section 149 of the IPC.

4. The learned counsel for the petitioners argued at length to convince this Court that, none of the offences alleged against the accused, are made out and therefore, the final report and further proceedings are liable to be quashed. It is pointed out that when the husband of the de facto complainant failed to repay an amount of Rs.15 Lakh, availed by the husband of the de facto complainant from Citizens Co-operative Society, Thrissur District during 2016 and when the society officials demanded the same, in order to wreck vengeance against the said demand, this case is one foisted.

5. Whereas, the learned Public Prosecutor would submit that, under the guise of demand of the amount due



from the husband of the de facto complainant, she was abused and threatened by accused Nos.1 to 10 in this crime.

6. On perusal of the records, it could be gathered that there was loan arrears to be paid by the husband of the de facto complainant and the demand for the same and the subsequent events led to registration of this crime, alleging commission of the offences punishable under Sections 143, 147, 447, 294(b), 506(i) and Section 149 of the IPC.

7. Having considered the genesis of this case, as one arose out of demand of the loan arrears, at the instance of the husband of the de facto complainant, false implication to wreck vengeance on account of demand of the loan amount could be noticed.

8. In the decision in **Vineet Kumar & Ors. v. State of U.P & anr.**, reported in **[2017 KHC 6274 : AIR 2017 SC 1884 : 2017 (13) SCC 369]**, the Apex Court held in paragraph 39 that inherent power given to the High Court under Section 482 Cr.P.C is with the purpose and object of advancement of justice. In case solemn process of Court is sought to be abused by a person with some oblique motive,



the Court has to thwart the attempt at the very threshold. The Court cannot permit a prosecution to go on if the case falls in one of the Categories as illustratively enumerated by this Court in **[AIR 1960 SC 866], State of Haryana v. Bhajan Lal**. Judicial process is a solemn proceeding which cannot be allowed to be converted into an instrument of operation or harassment. When there are material to indicate that a criminal proceeding which cannot be allowed to be converted into an instrument of operation or harassment. When there are material to indicate that a criminal proceeding is manifestly attended with mala fide and proceeding is maliciously instituted with an ulterior motive, the High Court will not hesitate in exercise of its jurisdiction under Section 482 Cr.P.C to quash the proceeding under Category 7 as enumerated in **State of Haryana v. Bhajan Lal** (supra), which is to the following effect:

“(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to



private and personal grudge.”

9. Similarly, in another decision in **Mahmood Ali v. State of U.P.**, reported in **[2023 KHC 7029 : 2023 KHC OnLine 7029 : 2023 LiveLaw (SC) 613 : 2023 KLT OnLine 175 : AIR 2023 SC 3709 : AIR OnLine 2023 SC 602 : 2023 CriLJ 3896]**, the Apex Court while considering the power under Section 482 Cr.P.C, in paragraph 12 held that whenever an accused comes before the Court invoking either the inherent powers under S.482 of the Code of Criminal Procedure or extraordinary jurisdiction under Art.226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely. We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he



would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complainant are such that they disclose the necessary ingredients to constitute the alleged offence. Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complainant alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under S.482 of the Cr.P.C. or Art.226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation / registration of the case as well as the materials collected in the course of investigation. Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the



background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.

10. Therefore, the legal position is clear that quashment of criminal proceedings can be resorted to when the prosecution materials do not constitute materials to attract the offence alleged to be committed. Similarly, the Court owes a duty to look into the other attending circumstances, over and above the averments to see whether there are materials to indicate that a criminal proceeding is manifestly attended with *mala fide* and proceeding instituted maliciously with ulterior motives. Once the said fact is established, the same is a good reason to quash the criminal proceedings.

Since the case emanated as and when the officials of the Co-operative Society demanded repayment of loan amount, and no serious overt acts even alleged, false implication to nullify demand of loan amount is the intention to be drawn from the materials. Thus, applying the ratio of the decisions referred above, this petition succeeds and the same stands



allowed. Accordingly, Annexure A9 Final Report and all further proceedings in C.C.No.541/2019 on the files of the Judicial First Class Magistrate Court-III, Thrissur, 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 2016/2023

PETITIONERS' ANNEXURES

ANNEXURE A1 TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE CO-OPERATIVE SOCIETY TOWARDS THE DEFACTO COMPLAINANT AGAINST THE LOAN BEARING NO: OL 973 DATED 29-03-2017

ANNEXURE2 TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE CO-OPERATIVE SOCIETY TOWARDS THE DEFACTO COMPLAINANT AGAINST THE LOAN BEARING NO: OL 974 DATED 29-03-2017

ANNEXURE A3 TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE CO-OPERATIVE SOCIETY TOWARDS THE DEFACTO COMPLAINANT AGAINST THE LOAN BEARING NO: OL 975 DATED 29-03-2017

ANNEXURE A4 TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE CO-OPERATIVE SOCIETY TOWARDS THE HUSBAND OF THE DEFACTO COMPLAINANT AGAINST THE LOAN BEARING NO: OL 973 DATED 29-03-2017

ANNEXURE A5 TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE CO-OPERATIVE SOCIETY TOWARDS THE HUSBAND OF THE DEFACTO COMPLAINANT AGAINST THE LOAN BEARING NO: OL 974 DATED 29-03-2017

ANNEXURE A6 TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE CO-OPERATIVE SOCIETY TOWARDS THE HUSBAND OF THE DEFACTO COMPLAINANT AGAINST THE LOAN BEARING NO: OL 975 DATED 29-03-2017

ANNEXURE A7 TRUE COPY OF THE FIR NO.138/2019 DATED 1.03.2019

ANNEXURE A8 TRUE COPY OF THE FIR NO.137/2019 DATED 1.03.2019

ANNEXURE A9 THE CERTIFIED COPY OF THE FINAL REPORT DATED 11.03.2019

RESPONDENTS' ANNEXURES : NIL