



2023:KER:65417

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

WEDNESDAY, THE 25TH DAY OF OCTOBER 2023 / 3RD KARTHIKA, 1945

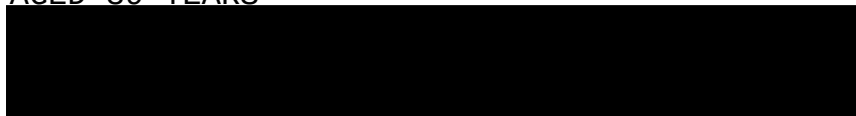
CRL.MC NO. 649 OF 2023

PETITIONERS/ACCUSED NOS.1,2 & 4:

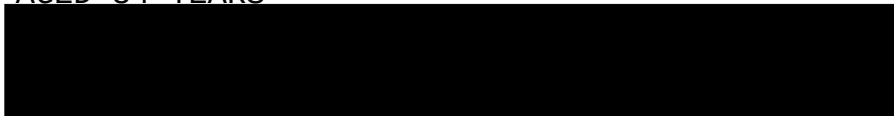
1 VIJAY KIRGANDUR
AGED 47 YEARS



2 RISHAB SHETTY
AGED 39 YEARS



3 B L AJANEESH @ AKA AJJU
AGED 34 YEARS



BY ADVS.
JOSEPH KODIANTHARA (SR.)
ANOOP.V. NAIR
LAYA MARY JOSEPH(K/000725/2016)
P.B.KRISHNAN(K/1193/1994)
ROHAN MAMMEN ROY
E.ADITHYAN

RESPONDENTS/STATE/COMPLAINANTS :

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

2 THE STATION HOUSE OFFICER
KOZHIKODE TOWN POLICE STATION
KOZHIKODE DISTRICT, PIN - 673001

3 MATHRUBHOOMI PRINTING AND PUBLISHING COMPANY LTD
KP KESHAVA MENON ROAD, KOZHIKODE TOWN, KOZHIKODE
DISTRICT REPRESENTED BY ITS MANAGER, PIN - 673001
BY ADVS.SANAL P.RAJ, PUBLIC PROSECUTOR
Dinoop PD
M.UMA DEVI(K/591/1994)
SATISH MURTHI(K/702-D/1992)



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CrI.M.C. Nos.649, 1356 & 4182 of 2023

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ANANDA PADMANABHAN(K/597/2017)
C.UNNIKRISHNAN (KOLLAM)(K/864/1994)
DIRECTOR GENERAL OF PROSECUTION(AG-10)
P.NARAYANAN, SENIOR G.P. AND ADDL.PP
SHRI.SAJJU.S., SENIOR G.P.()
SRI.P. VIJAYABHANU
SRI.RENYKRISHNAN

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR
ADMISSION ON 25.10.2023, ALONG WITH
CrI.MC.1356/2023 AND CONNECTED CASES, THE COURT
ON THE SAME DAY PASSED THE FOLLOWING:**



CrlM.C. Nos.649, 1356 & 4182 of 2023

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

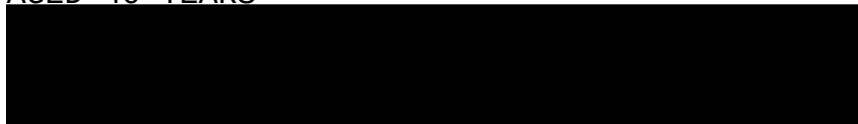
WEDNESDAY, THE 25TH DAY OF OCTOBER 2023 / 3RD KARTHIKA,

1945

CRL.MC NO. 1356 OF 2023

PETITIONER/ACCUSED NO.1:

PRITHVIRAJ SUKUMARAN,
AGED 40 YEARS



BY ADVS.JOSEPH KODIANTHARA (SR.)
VIJAY V. PAUL
THOMAS J.ANAKKALLUNKAL
CHELSON CHEMBARATHY
GOKUL KRISHNAN R.
JAYARAMAN S.
ANUPA ANNA JOSE KANDOTH

RESPONDENTS/STATE & DEFACTO COMPLAINANT:

- 1 STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM- 682031
- 2 THE MATHRUBHUMI PRINTING AND PUBLISHING CO. LTD.
M.J. KRISHNAMOHAN MEMORIAL BUILDING, K.P. KESAVA
MENON ROAD, KOZHIKODE-673001
REPRESENTED BY - SRI G. ANAND
BY ADVS.RENJITH T.R, PP
M.UMA DEVI
SATISH MURTHI
SRUTHY K.K
P.VIJAYA BHANU (SR.)
P.M.RAFIQ
M.REVIKRISHNAN
AJEESH K.SASI
SRUTHY N. BHAT



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CrI.M.C. Nos.649, 1356 & 4182 of 2023

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RAHUL SUNIL
NIKITA J. MENDEZ

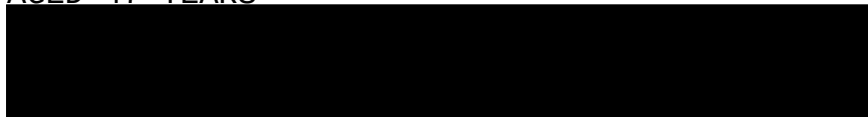
THIS CRIMINAL MISC. CASE HAVING COME UP FOR
ADMISSION ON 25.10.2023, ALONG WITH CrI.MC.649/2023,
4182/2023, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:



IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
WEDNESDAY, THE 25TH DAY OF OCTOBER 2023 / 3RD KARTHIKA,
1945
CRL.MC NO. 4182 OF 2023

PETITIONERS/ACCUSED 1 & 4:

1 VIJAY KIRGANDUR,
AGED 47 YEARS



2 B L AJANEESH @ AKA AJJU,
AGED 34 YEARS



BY ADVS.
ANOOP.V.NAIR
P.B.KRISHNAN
LAYA MARY JOSEPH
AVANTHIKA R.

RESPONDENTS/STATE/COMPLAINANTS:

- 1 STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031
- 2 THE STATION HOUSE OFFICER,
KOZHIKODE TOWN POLICE STATION, KOZHIKODE
DISTRICT, PIN - 673001
- 3 THE MATHRUBHOOMI PRINTING AND
PUBLISHING COMPANY LTD,
KP KESHAVA MENON ROAD, KOZHIKODE TOWN,
KOZHIKODE DISTRICT PIN - 673001
REPRESENTED BY ITS AUTHORIZED SIGNATORY G.ANAND,



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CrI.M.C. Nos.649, 1356 & 4182 of 2023

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BY ADVS.
PUBLIC PROSECUTOR
M.UMA DEVI
SATISH MURTHI

OTHER PRESENT:

SRI.HRITHWIK.C.S, PP

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR
ADMISSION ON 25.10.2023, ALONG WITH
CrI.MC.1356/2023 AND CONNECTED CASES, THE COURT
ON THE SAME DAY PASSED THE FOLLOWING:**



P.V.KUNHIKRISHNAN, J.

Crl.M.C. Nos.649, 1356 & 4182 of 2023

Dated this the 25th day of October, 2023

ORDER

These Criminal Miscellaneous Cases are connected and therefore, I am disposing these cases by a common order.

2. These cases are filed for quashing the FIR in Crime No.703/2022 of Kozhikode Town Police Station. The above case is registered alleging offences punishable under Section 63 of the Copyright Act.

3. Today, when these matters came up for consideration, the learned Senior Counsel Adv.Joseph Kodianthara as instructed by Adv.Vijay V.Paul, submitted that the entire dispute between the petitioners and the victim are settled and they have no objection in quashing the proceedings. The counsel appearing for the victim also submitted that the matter is settled and the victim has no objection in quashing the prosecution. An agreement executed between the parties is also produced to show the settlement.



4. The learned Public Prosecutor, on instructions, has expressed reservations about quashing the proceedings solely on the basis of the settlement. But the Public Prosecutor conceded that the matter is settled between the parties.

5. This Court has considered the submission of the petitioners, victim and the Public Prosecutor.

6. In **State of Madhya Pradesh v Laxmi Narayan and Others (2019 (5) SCC 688)**, three judge bench of the Hon'ble Supreme Court has summarized the situation in which non compoundable offences can be quashed invoking the powers under Section 482 of the Code. The Apex Court in **Laxmi Narayan's** case (supra) also relied on the law laid down in **Gian Singh v. State of Punjab and another (2012 (10) SCC 303)** and **Narinder Singh and others v. State of Punjab and another (2014 (6) SCC 466)**. The Apex Court in paragraph 13 of the **Laxmi Narayan's** case discussed the law in detail and the same is extracted hereunder:

“13. Considering the law on the point and the other decisions of this Court on the point, referred to herein above, it is observed and held as under:

i) that the power conferred under S.482 of the Code to quash the criminal proceedings for the non -



compoundable offences under S.320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

ii) such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;

iii) similarly, such power is not to be exercised for the offences under the special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;

iv) offences under S.307 IPC and the Arms Act etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under S.307 IPC and / or the Arms Act etc. which have a serious impact on the society cannot be quashed in exercise of powers under S.482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest



its decision merely because there is a mention of S.307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of S.307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under S.307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital / delegate parts of the body, nature of weapons used etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge sheet is filed / charge is framed and / or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated herein above;

v) while exercising the power under S.482 of the Code to quash the criminal proceedings in respect of non- compoundable offences, which are private in nature and do not have a serious impart on society, on the ground that there is a settlement / compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely,



whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise etc.”

7. Keeping in mind the above dictum laid down by the Apex Court, this Court perused the facts in this case and also perused the documents produced by the parties. After going through the entire facts and circumstances, I am of the considered opinion that, the dispute is private in nature and the settlement can be accepted.

Therefore, these Criminal Miscellaneous Cases are allowed. All further proceedings against the petitioners in these cases, in Crime No.703/2022 of Kozhikode Town Police Station, are quashed.

**APPENDIX OF CRL.MC 649/2023**

PETITIONER ANNEXURES

- Annexure VI TRUE COPY OF THE COMPLAINT FILED BY THE DE-FACTO COMPLAINANT IN THE MATTER HEREIN
- Annexure I TRUE COPY OF THE FIR REGISTERED BY THE KOZHIKODE TOWN POLICE STATION IN CRIME NO. 703/2022
- Annexure II TRUE COPY OF THE ORDER IN I.A. NO. 11/2022 IN O.S. NO. 4/2022 PASSED BY THE HON'BLE PALAKKAD DISTRICT COURT , DATED 03.12.2022
- Annexure III TRUE COPY OF THE ORDER IN I.A. 11/2022 IN O.S. NO.14/2022, PASSED BY THE HON'BLE KOZHIKODE DISTRICT COURT, DATED 25.11.2022
- Annexure IV TRUE COPY OF THE FAO NO. 147/2022, WITHOUT ANNEXURES, FILED BY THE THAIKUDAM BRIDGE BAND GROUP BEFORE THIS HON'BLE COURT
- Annexure V TRUE COPY OF I.A NO. 1/2023 IN FAO 147/2022, FILED BY THE APPELLANT THEREIN
- Annexure VI COPY OF THE COMPLAINT FILED BY THE DEFACTO COMPLAINANT IN THE MATTER HEREIN

RESPONDENT ANNEXURES

- annexure R3[a] true copy of the plaint Os 4/22 before the District court palakkad
- annexure R3[b] true copy of the screen shot of the lyrical video of the song varaha Roopam inthe official web site of 1st petitioner
- annexure R3[c] true copy of the order date 28/10/22 in Os 14/22 district judge kozhikode
- annexure R3[d] true copy of the order date 2/11/22 in os 4/22 district court palakkad
- annexure R3[e] true copy of the social media post of the 2nd petitioner stating falsely that he has won the case



PETITIONER ANNEXURES

- Annexure VII TRUE COPY OF THE ORDER IN CMP NO.
1802/2022, DATED 05.11.2022, PASSED BY
THE HON'BLE JFCM COURT, KOZHIKODE
- Annexure VIII TRUE COPY OF THE AGREEMENT ENTERED
UPON BETWEEN THE 1ST PETITIONER AND
THE 3RD RESPONDENT, THYKODAM BRIDGE
AND THE 3RD ACCUSED WHO IS ALSO
AFFECTED BY THE FIR, DATED 18.10.2023

**APPENDIX OF CRL.MC 4182/2023**

PETITIONER ANNEXURES

- Annexure I TRUE COPY OF THE FIR REGISTERED BY THE KOZHIKODE TOWN POLICE STATION IN CRIME NO. 703/2022
- Annexure II TRUE COPY OF THE ORDER IN I.A. NO. 11/2022 IN O.S. NO. 4/2022 PASSED BY THE HON'BLE PALAKKAD DISTRICT COURT, DATED 03.12.2022,
- Annexure III TRUE COPY OF THE ORDER IN I.A NO. 11/2022 IN O.S. NO.14/2022 PASSED BY THE HON'BLE KOZHIKODE DISTRICT COURT, DATED 25.11.2022,
- Annexure IV TRUE COPY OF THE FAO NO. 147/2022 WITHOUT ANNEXURES, FILED BY THE THAIKUDAM BRIDGE BAND GROUP BEFORE THIS HON'BLE COURT
- Annexure V TRUE COPY OF I.A NO. 1/2023 IN FAO 147/2022, FILED BY THE APPELLANT THEREIN
- Annexure VI TRUE COPY OF THE ORDER DATED 13.04.2023 IN I.A NO. 3/2023 IN O.S. NO. 3/2023, PASSED BY THE DISTRICT COURT, KOZHIKODE
- Annexure VII TRUE COPY OF THE INTERIM ORDER DATED 18.04.2023, PASSED BY THIS HON'BLE COURT IN FAO NO.36/2023 FILED BY THE PETITIONERS HEREIN
- Annexure VIII A TRUE COPY OF THE ORDER DATED 05.04.2023 PASSED BY THE CHIEF JUDICIAL MAGISTRATE, KOZHIKODE
- Annexure IX TRUE COPY OF THE AGREEMENT ENTERED UPON BETWEEN THE 3RD RESPONDENT AND THE THAIKUDAM BRIDGE IN RESPECT OF MAKING OF THE SONG NAVARASAM
- Annexure X TRUE COPY OF THE ORDER DATED 08.02.2023, PASSED BY THIS HON'BLE COURT IN BAIL APPLICATION NO. 759/2023
- Annexure XI TRUE COPY OF THE INTERIM ORDER PASSED BY THE HON'BLE SUPREME COURT IN S.L.A. (CRL) NO 2019/ 2023, DATED 10.02.2023



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Annexure XII

TRUE COPY OF THE ORDER DATED
17.03.2023 PASSED BY THE HON'BLE
SUPREME COURT IN SPECIAL LEAVE APPEAL
(CRL NO) 2019/2023

**APPENDIX OF CRL.MC 1356/2023**

PETITIONER ANNEXURES

Annexure 1	TRUE COPY OF THE NOTICE U/S 41(A) OF CRPC SERVED TO THE PETITIONER
Annexure II	COPY OF THE REPLY LETTER TO THE NOTICE U/S 41(A) ISSUED BY THE 1ST RESPONDENT
Annexure3	CERTIFIED COPY OF THE FIR REGISTERED BY THE KOZHIKODE TOWN POLICE STATION IN CRIME NO. 703/2022
Annexure4	CERTIFIED TRUE COPY OF THE PRIVATE COMPLAINT FILED BY THE 2ND RESPONDENT BEFORE THE CHIEF JUDICIAL MAGISTRATE, KOZHIKODE
Annexure V	TRUE COPY OF THE PLAINT IN O.S. NO. 4/2022 BEFORE THE HON'BLE PALAKKAD DISTRICT COURT
Annexure VI	COPY OF THE PLAINT IN O.S. NO.14/2022 BEFORE THE HON'BLE KOZHIKODE DISTRICT COURT
Annexure VII	TRUE COPY OF THE ORDER IN O.S. NO. 4/2022 BEFORE THE HON'BLE PALAKKAD DISTRICT COURT
Annexure VIII	TRUE COPY OF THE ORDER IN O.S. NO.14/2022 BEFORE THE HON'BLE KOZHIKODE DISTRICT COURT
Annexure IX	COPY OF THE SAID LEGAL NOTICE ISSUED TO THE MUSIC BAND'S COUNSEL DATED 31.10.2022
Annexure X	COPY OF THE REPLY NOTICE DATED 01.11.2022
Annexure XI	COPY OF THE COUNTER AFFIDAVIT FILED AS I.A 03/2022 IN O.S 04/2022 BEFORE THE HON'BLE DISTRICT AND SESSIONS COURT, PALAKKAD BY PRITHVIRAJ PRODUCTIONS PRIVATE LIMITED
Annexure XII	TRUE COPY OF THE ORDER IN I.A NO. 1/2023 IN FAO 147/2022 DATED 12.01.2023
Annexure XIII	TRUE COPY OF THE CASE DETAILS STATUS DOWNLOADED FROM HIGH COURT'S ONLINE



2023:KER:65417

CrlM.C. Nos.649, 1356 & 4182 of 2023

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PORTAL IN FAO NO. 147/2022, FILED BY
THE MUSIC BAND BEFORE THIS HON'BLE
COURT

Annexure XIV

WITHDRAWAL DEED BY THE 2ND RESPONDENT
DATED 18.10.2023