



2026:KER:63891

CRL.MC NO. 5143 OF 2025

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE C.S.DIAS

TUESDAY, THE 18TH DAY OF AUGUST 2026 / 27TH SRAVANA, 1948

CRL.MC NO. 5143 OF 2025

AGAINST THE ORDER/JUDGMENT DATED IN CC NO.1390 OF 2015
OF JUDICIAL MAGISTRATE OF FIRST CLASS -III, THIRUVANANTHAPURAM

PETITIONER/2ND ACCUSED:

A.T. GEORGE
AGED 61 YEARS
EX-M.L.A., BISHA COTTAGE, VETUVILLA, PARASSALA
P.O., THIRUVANANTHAPURAM, PIN - 695502

BY ADVS.
SRI.ENOCH DAVID SIMON JOEL
SRI.S.SREEDEV
SRI.RONY JOSE
SHRI.LEO LUKOSE
SRI.KAROL MATHEWS SEBASTIAN ALENCHERRY
SHRI.DERICK MATHAI SAJI
SHRI.KARAN SCARIA ABRAHAM
SHRI.ITTOOP JOY THATTIL

RESPONDENTS/STATE & COMPLAINANT:

- 1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM, PIN - 682031
- 2 K.K. LATHIKA
M.L.A., POOKOTTU HOUSE, VATTOLI P.O., KAKKATTIL,
KOZHIKODE, PIN - 673507



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BY ADVS.
SHRI.M.RAJAGOPALAN NAIR
SRI.G.BIJU
SHRI.S.JAYAPRAKASH (MADAVOOR)
SRI.V.A.VINOD
SHRI.AMBADI MURALI

OTHER PRESENT:

SR SRI GRASHIOUS KURIAKOSE
DGP SRI T ASAF ALI

THIS CRIMINAL MISC. CASE HAVING COME UP FOR FINAL
HEARING ON 07.08.2026, THE COURT ON 18.08.2026 PASSED THE
FOLLOWING:



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C.S.DIAS,J.

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Crl.M.C No.5143 of 2025

Dated this the18th day of August, 2026

ORDER

The petitioner is the 2nd accused in C.C. No. 1390 of 2015 on the file of the Court of the Judicial First-Class Magistrate-III, Thiruvananthapuram ('learned Magistrate' for brevity), registered on the basis of Annexure A1 complaint filed by the 2nd respondent alleging the commission of the offences punishable under Sections 341, 354 and 509 read with Section 34 of the Indian Penal Code ('IPC', for short).

2. The petitioner has invoked the inherent jurisdiction of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, to quash the complaint and all further proceedings on the ground that,



even if the allegations in the complaint are accepted in their entirety, the ingredients of the alleged offences are not attracted against the petitioner. By Annexure A5 common order, this Court has already quashed the proceedings against the 1st accused on the specific finding that the alleged offences were not attracted against him. The petitioner claims parity with the 1st accused. It is further contended that the complaint is politically motivated and unsupported by any material evidence. Therefore, even if the trial was to proceed, the petitioner cannot be convicted.

3. The allegations in the complaint, in brief, are that the petitioner and the 2nd respondent were Members of the 13th Legislative Assembly. On 13.03.2015, the opposition MLAs staged a protest in the Assembly, demanding the resignation of the then Finance Minister and opposing him from presenting the State Budget for 2015-16, on allegation of corruption. At about 8:45 a.m.



on the said day, the 2nd respondent and other opposition MLAs entered the Assembly Hall and raised slogans against the former Finance Minister. Then, the 'Watch and Ward' force of the Legislative Assembly attempted to remove the protesting MLAs. During the altercation, when the 2nd respondent was proceeding towards the other lady MLAs, the 1st accused allegedly restrained her, touched her body inappropriately and attempted to push her down to the floor. At that time, the 2nd accused allegedly hit the 2nd respondent on her back, below the neck, with his elbow. It is alleged that the 2nd accused did the act knowing that it would cause hurt to the 2nd respondent, who had subsequently collapsed and was taken to the Medical College Hospital. The 2nd respondent has further alleged that the incident was witnessed by several persons present inside the Legislative Assembly and by persons watching it online. According to her, as a Member of the Assembly, she was



entitled to move freely within the House, but was unlawfully obstructed by accused Nos. 1 and 2. Although she submitted a complaint to the Speaker of the House, no action was taken. She thereafter submitted a complaint to the Director General of Police on 23.03.2015, but no case was registered. Hence, the private complaint.

4. Although the 2nd respondent alleged that the accused had committed the offences punishable under Sections 341, 354 and 509 read with Section 34 of the IPC, the learned Magistrate, by Annexure A2 order, took cognizance only of the offences punishable under Sections 341 and 354 read with Section 34 of the IPC.

5. I have heard the learned counsel for the petitioner, the learned Director General of Prosecution and the learned counsel for the 2nd respondent.

6. The substratum of the prosecution case is that, on 13.03.2015, while the 2nd respondent and other



opposition MLAs were demanding the resignation of the then Finance Minister and opposing him from presenting the State Budget for 2015-16, the 1st accused restrained the 2nd respondent, touched her body inappropriately and attempted to push her down to the floor. At that time, the 2nd accused allegedly hit the 2nd respondent.

7. It is undisputed, that this Court, by Annexure A5 common order, has quashed the proceedings against the 1st accused.

8. The allegations in the complaint itself indicate that there was considerable pandemonium in the House, resulting in a law-and-order situation, and that the Watch and Ward force had to intervene to prevent the 2nd respondent and the other opposition leaders from interrupting the then Finance Minister from presenting the Budget. It was in the course of this commotion that the 1st accused allegedly restrained the 2nd respondent,



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touched her body inappropriately and attempted to push her down to the floor. The allegation against the petitioner, however, is materially different. The specific allegation against him is that he hit the 2nd respondent on her back, below the neck, with his elbow.

9. Although the complaint contains a general allegation that the 2nd respondent was obstructed by both accused, the specific overt act attributed to the petitioner is only that he struck the 2nd respondent on her back with his elbow. There is no further allegation describing any act of obstruction caused by the petitioner to the 2nd respondent or touching her body inappropriately or attempting to push her to the floor. Thus, the very acts attributed to the petitioner do not disclose the essential ingredients of the offences under Sections 341 and 354 of the IPC. Consequently, the offence under Section 34 of the IPC also cannot be attributed to the petitioner. There is also no charge framed against the petitioner by the



learned Magistrate for causing hurt to the 2nd respondent. Consequently, even if the allegations in the complaint are accepted at their face value, they do not disclose the commission of the offences for which the petitioner is being prosecuted. Quite apart from parity, the allegations specifically and substantively attributed to the petitioner, even if accepted in their entirety, do not constitute the offences charged against him; nor is there a sufficient factual foundation in the complaint to attract Section 34 IPC. This Court has quashed the proceedings against the 1st accused on the specific finding that the offences are not attracted against him. More importantly, an independent examination of the allegations against the petitioner leads to the same result: the specific acts attributed to him do not satisfy the ingredients of Sections 341 or 354 of the IPC. The continuation of the proceedings against the petitioner, therefore, cannot be sustained merely because an allegation of an assault has



been made when no corresponding offence has been charged or made out. It is also to be noted that the learned Magistrate deleted the offence under Section 509 IPC while framing the charge, being satisfied that the said offence is not attracted. The 2nd respondent has not challenged the order.

10. The contours of the inherent powers of this Court under Section 528 of the BNSS are well settled. While exercising such power, this Court is required to ascertain whether the uncontroverted allegations in the complaint, when accepted at their face value and read as a whole, disclose the commission of the offence alleged. Where the allegations fail to satisfy the essential ingredients of the offence, permitting the prosecution to proceed would amount to an abuse of the process of the law. The principles enunciated in *State of Haryana and others v. Bhajan Lal and others* [(1992) Supp (1) SCC 335], *Central Bureau of Investigation v. Aryan Singh and*



others [(2023) 18 SCC 399], *Daxaben v. State of Gujarat and others* [(2022) 16 SCC 117], and *Monica Kumar (Dr.) and Another v. State of Uttar Pradesh and others* [(2008) 8 SCC 781] govern the field.

11. On an overall consideration of the allegations in the complaint, the materials placed on record, the principles laid down in the aforesaid decisions and the findings recorded in Annexure A5 order, I am satisfied that, even if the allegations against the petitioner are accepted in their entirety, they do not disclose the commission of the offences for which he is being prosecuted. The specific allegation against the petitioner, namely, that he hit the 2nd respondent on her back with his elbow, does not constitute the ingredients of wrongful restraint under Section 341 or outraging the modesty of a woman under Section 354 of the IPC. In the absence of any charge for causing hurt, the allegation of hitting the 2nd respondent cannot independently sustain the present



prosecution. This Court is not quashing the proceedings on an appreciation of the truth or falsity of the allegation, but because the allegation, even if accepted as true, does not constitute the offences charged. The case, therefore, falls squarely within the parameters laid down in ***Bhajan Lal's case*** (supra), warranting the exercise of the inherent jurisdiction of this Court to prevent abuse of the process of the Court.

In the result, the Criminal Miscellaneous Case is allowed. Annexure A1 complaint and all further proceedings in C.C. No. 1390 of 2015 on the file of the Court of the Judicial First-Class Magistrate-III, Thiruvananthapuram, insofar as they relate to the petitioner, stand quashed.

SD/-

C.S.DIAS, JUDGE



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APPENDIX OF CRL.MC NO. 5143 OF 2025

PETITIONER ANNEXURES

- Annexure A1 CERTIFIED COPY OF THE COMPLAINT IN C.C. NO. 1390/2015 ON THE FILES OF THE JUDICIAL FIRST CLASS MAGISTRATE'S COURT - III, THIRUVANANTHAPURAM.
- Annexure A2 CERTIFIED COPY OF THE ORDER TAKING COGNIZANCE IN ANN.A1 DATED 19.09.2025 ON THE FILES OF THE JUDICIAL FIRST CLASS MAGISTRATE'S COURT -III, THIRUVANANTHAPURAM.
- Annexure A3 CERTIFIED COPY OF THE SWORN STATEMENT OF THE COMPLAINANT WHO EXAMINED HERSELF AS CW1 IN C.M.P.NO. 1862/15 ON THE FILES OF THE JUDICIAL FIRST CLASS MAGISTRATE'S COURT -III, THIRUVANANTHAPURAM DATED 08.06.2015.
- Annexure A4 CERTIFIED COPY OF THE SWORN STATEMENT OF CW2 IN C.M.P.NO. 1862/15 ON THE FILES OF THE JUDICIAL FIRST CLASS MAGISTRATE'S COURT -III, THIRUVANANTHAPURAM DATED 27.07.2015.
- Annexure A5 A TRUE COPY OF THE JUDGEMENT DATED 13.09.2024 IN CRL.M.C.NO.370 OF 2016 ON THE FILES OF THIS HON'BLE COURT.