

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

Thursday, the 10th day of August 2023 / 19th Sravana, 1945

CRL.MC NO. 6332 OF 2023

CRIME NO.798/2023 OF CANTONMENT POLICE STATION, THIRUVANANTHAPURAM
PETITIONER/ACCUSED (A1):

SANGEETH KUMAR, AGED 66 YEARS, S/O. MOHANANATHAN NAIR, SREEGOVIND,
AMBALATHARA, THIRUVANANTHAPURAM, PIN 695026. VICE PRESIDENT, NAIR
SERVICE SOCIETY,N.S.S.HEAD OFFICE, PERUNNA, CHANGANASSERY P.O.,
KOTTAYAM, PIN-686101

RESPONDENT/STATE:

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

This Criminal Misc. case again coming on for orders, upon persuing
the petition, this court's order dated 07.08.2023 and upon hearing the
arguments of M/S. R.T.PRADEEP, V.VIJULAL, P.BIJIMON & M.BINDUDAS, Advocate
for the petitioner and of PUBLIC PROSECUTOR for the respondent, the court
passed the following:



RAJA VIJAYARAGHAVAN V, J.

CrI.M.C No.6332 of 2023

Dated this the 10th day of August, 2023

ORDER

I have heard Sri.P Vijayabhanu, the learned senior counsel and the learned Public Prosecutor.

2. It is submitted by the learned senior counsel that the petitioner herein had submitted a request in terms of the provisions of the Kerala Public Ways (Restrictions of Assemblies and Processions) Act, 2011, and it was thereafter that a peaceful procession was taken out on 02.08.2023. It is urged that there is no case in the initial records that any criminal force was used by any of the members of the assembly. According to the learned senior counsel, the mere fact that a group of persons numbering over five took out a procession would not make the assembly unlawful. It is further urged that if by registration of the Crime, the right of the petitioner and his union members to protest is attempted to be stifled, it would violate the rights guaranteed to the citizens of the country under the Constitution.

3. In response, it is submitted by the learned Public Prosecutor that the Crime was registered when a march was taken out without obtaining

consent under Act, 2011. Though a request was made online, the march was taken out without securing permission from the authority concerned. On a query, it is submitted that no untoward incident happened, and none of the participants used any force. It is further submitted that few of the accused who had participated in the procession have been identified.

Having considered the facts and circumstances, and in view of the law laid down and the observations in **Prakash Karat and Others v. State of Kerala** (2022 (5) KLT 907), I am of the view that the petitioner has made out a case for grant of an interim order. All further proceedings in Crime No.798/2023 of the Cantonment Police Station shall be kept in abeyance for a period of four weeks.



Sd/-

**RAJA VIJAYARAGHAVAN V,
JUDGE**

IAP