



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR. A.J.DESAI

&

THE HONOURABLE MR.JUSTICE V.G.ARUN

TUESDAY, THE 9TH DAY OF JANUARY 2024 / 19TH POUSHA, 1945

WA NO. 29 OF 2024

AGAINST THE ORDER/JUDGMENT WP(C) 40709/2023 OF HIGH COURT OF
KERALA

APPELLANT/PETITIONER:

XXXXXXXXXX
XXXXXXXXXX XXXXXXXXXXXX

BY ADVS.
V.SETHUNATH
LAKSHMINARAYAN.R
SREEGANESH U.
THOMAS ABRAHAM (K/1051/2010)
V.R.MANORANJAN (MUVATTUPUZHA)

RESPONDENT/RESPONDENT:

- 1 STATE OF KERALA
REPRESENTED BY THE SECRETARY TO HOME DEPARTMENT,
SECRETARIAT, THIRUVANATHAPURAM., PIN - 695001
- 2 THE STATE POLICE CHIEF
POLICE HEAD QUARTERS, SASTHAMANGALAM. P.O
THIRUVANATHAPURAM, PIN - 695010
- 3 THE HON: REGISTRAR (DISTRICT JUDICIARY)
HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031
- 4 THE HON: REGISTRAR GENERAL
HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031

OTHER PRESENT:



2024/KER/1208

W.A.No.29 of 2024

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SR.B.G.HARINDRANATH ; SR. GP.V.TEKCHAND

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 09.01.2024,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



**A. J. Desai, C.J.
&
V.G. Arun, J.**

W.A.No.29 of 2024

Dated this the 9th day of January 2024

JUDGMENT

A.J. Desai, C.J.

By way of the present writ appeal filed under Section 5 of the Kerala High Court Act, the appellant challenges the judgment dated 12/12/2023, by which the learned Single Judge held that the Magistrate, who passed Ext.P1 order revealing the name and address of the victim, cannot be proceeded under Section 228A of I.P.C. The appellant is the complainant/victim in a crime registered for offences punishable under Section 376, 376(2)(a), 376(2)(i), 376(2)(l), 376(2)(n), 323 & 506(ii) of the IPC.

2. Learned Counsel appearing for the appellant would submit that the Magistrate was bound to mask the name and address of the prosecutrix. However, in this case Magistrate mentioned the name and details of the appellant in Ext.P1 order and therefore, action is required to be taken against the Magistrate.



3. On the other hand, learned Counsel appearing for the High Court has taken us through the judgment impugned and submitted that sufficient care has been taken by the learned Single Judge while disposing of the writ petition.

4. We have heard the learned Advocates appearing for the respective parties.

5. It is true that the name and address of the appellant was not masked in Ext.P1 order. In paragraphs 15 to 20 of the judgment, certain relevant observations are made by the learned Single Judge. Paragraph 15 to 20 reads as follows;

“15. In the case at hand, it is indubitable that the learned Magistrate was acting in performance of judicial duties and the error committed by her, or her office, is that the order was not anonymised qua the petitioner. This Court cannot, therefore, find the request of the petitioner, for initiation of action against the learned Magistrate under Section 228 A of the IPC, to be worthy of grant, specifically within the ambit of the said Section, read with the provisions of the ‘Act’.

16. However, before I conclude, it obligates this Court to declare without any ambiguity, that every Judge is to act fully conscious of the imperative requirement of maintaining anonymity of victims of sexual offences,



particularly in relation to those enumerated in Section 228 A of the IPC.

17. Many times, experience has shown that cause title of judgments are prepared by the offices of Courts concerned; while, only the judgments per se are corrected and verified by the learned Judicial Officers. The mounting number of cases adds to the problem and exacerbates mistakes; and obviously, therefore, this case should be an eye-opener to every such officer who discharges his/her duties under the ambit of penal provisions.

18. This Court, therefore, suggests that, in matters like this, wherever petitions are filed by or against victims of sexual offences – as specified under Section 228 A of the IPC - Judges and Judicial Officers must initiate immediate action to anonymise the details, particularly their names and addresses, before continuing with consideration of the applications/cases; and if this is done at the inception, obviously, the final orders will also carry such anonymisation. This should be done and ensured to be done.

19. For the afore purpose, I direct the Registry to immediately circulate a copy of this judgment, along with an apposite Office Memorandum, to all learned Judicial Officers, particularly in the Criminal Jurisdiction, for necessary action and compliance.

20. It will also be apposite for the Registrar (District



Judiciary) to serve a copy of this judgment on the Director, Kerala Judicial Academy, so that these issues can be kept in mind, while the training processes are undertaken for the Judicial Officers.”

6. On going through the above paragraphs, we are in agreement with the observations, since the learned Single Judge has issued specific directions for future guidance, which are detailed in paragraph 20 extracted above. As found by the learned Single Judge, the inadvertent mistakes on the part of the Magistrate cannot lead to action under Section 228 of IPC.

For the above mentioned reasons, the writ appeal is dismissed.

Sd/-

A. J. Desai
Chief Justice
Sd/-

V.G. Arun
Judge

dpk