

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

THURSDAY, THE 3RD DAY OF MARCH 2022 / 12TH PHALGUNA, 1943

CRL.MC NO. 1184 OF 2022

ST 4981/2019 OF JUDICIAL MAGISTRATE OF FIRST CLASS-I,
PALA

Crime No.1019/2018 of Kuravilangadu Police Station

PETITIONERS/ACCUSED:

Redacted

BY ADVS.ALEX JOSEPH
NISHA K.PETER

RESPONDENT/COMPLAINANT:

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

BY SRI M P PRASANTH- Public Prosecutor

THIS CRIMINAL MISC. CASE HAVING COME UP FOR
ADMISSION ON 03.03.2022, THE COURT ON THE SAME DAY PASSED
THE FOLLOWING:

ORDER

This Crl.M.C. has been filed to quash the final report in S.T.No.4981/2019 on the file of the Judicial First Class Magistrate Court-I, Pala.

2. The petitioners are the accused Nos.1 and 2.

3. The offence alleged against the petitioners is under Section 228A of the IPC.

4. The petitioners are nuns. The prosecution allegation is that the petitioners published photo of the victim involved in a case under Section 376 of the IPC disclosing her identity. This petition has been filed on the ground that, even if the entire allegations against the petitioners are believed in its entirety, no offence under Section 228A of the IPC is made out.

5. I have heard Sri.Alex Joseph, the learned counsel for the petitioners and Sri.M.P.Prasanth, the learned Public Prosecutor for the respondent.

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6. The allegation in the FIS is that the petitioners published the photo of the victim through social media platform, whatsapp. However, after the investigation, it was found that the petitioners sent e-mail to three named persons who are working as media persons.

7. The learned counsel for the petitioners, Sri.Alex Joseph, submitted that the e-mail allegedly sent by the petitioners to three media persons is a private communication between two persons and not a publication so as to bring it within Section 228A of the IPC. On the other hand, the learned Public Prosecutor submitted that, even a private communication between two individuals, that too with media persons, disclosing the identity of the victim would fall within the ambit of Section 228A of the IPC.

8. A copy of the contents of the e-mail has been made available to me by the learned Public Prosecutor. It contains a report as well as a photograph. In the report, the name of the victim has not been disclosed at all. However, after the report, a photograph of the victim along with a few other priests had

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been shown. But it is specifically stated at the end of the report that the identity as well as the face of the victim shall not be published. Thus, it is clear that the report sent by the petitioners through e-mail to three media persons was meant for publication. However, in the said report, the name or identity of the victim is not disclosed at all. Therefore, the contents of the report as such do not fall within Section 228A of the IPC. Of course, the report carries the photograph of the victim. But a specific instruction was given by the petitioners to the recipient of the e-mail that the identity of the person in the photograph or identity of the victim shall not be published at all. It is submitted that, that is not published also. Hence, I am of the view that, it is only a private communication between two persons. The circumstance shows that there was no intention on the part of the petitioners to disclose the identity of the victim involved in a sexual offence to the public at large or even to a third party.

For the reasons stated above, I am of the view that the ingredients of Section 228A of the IPC are not attracted.

Crl.M.C.No.1184 of 2022

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Hence, no purpose will be served in proceeding with the case against the petitioners further. Accordingly, the Crl.M.C. is allowed. All further proceedings against the petitioners in Crime No.1019/2018 of Kuravilangadu Police Station are hereby quashed.

Sd/-

**DR.KAUSER EDAPPAGATH,
JUDGE**

skj

APPENDIX OF CRL.MC 1184/2022

PETITIONERS' ANNEXURES

- Annexure1 TRUE COPY OF THE FINAL REPORT IN FIR
NO. 1019 / 2018 BEFORE THE JUDICIAL
FIRST CLASS MAGISTRATE COURT-I, PALA
- Annexure2 TRUE COPY OF THE APPLICATION DATED
11.02.2020 FILED BEFORE THE JUDICIAL
FIRST CLASS MAGISTRATE - I, PALA,
KOTTAYAM, KERALA IN ST.4981/2019
- Annexure3 TRUE COPY OF THE ORDER / RECORD OF
PROCEEDINGS DATED 04.01.2022 PASSED BY
THE JUDICIAL FIRST CLASS MAGISTRATE -
I, PALA, KOTTAYAM, KERALA IN
ST.4981/2019.