

IN THE COURT OF THE ADDL. SESSIONS JUDGE-II,
THIRUVANANTHAPURAM

PRESENT : SRI. N.SESHADRINATHAN, ADDL. SESSIONS JUDGE

Friday the 9th day of October, 2020/ 17th Aswina, 1942

CRIMINAL M.C.Nos. 1790/2020, 1791/2020 & 1792/2020
and
CRIMINAL M.P. No.1135/2020 in CRIMINAL M.C. No.1790/20
and
CRIMINAL M.P. No.1136/2020 in CRIMINAL M.C. No.1791/20
and
CRIMINAL M.P. No.1137/2020 in CRIMINAL M.C. No. 1792/20

(Crime No. 1765/2020 of Thampanoor Police Station)

CRIMINAL M.C. No.1790/2020

PETITIONER:-

Bhagvalakshmi K...

Adv. K.P. Jayachandran

UNDER PETITIONER:-

The Inspector of Police,
Thampanoor Police Station.

Addl. Public Prosecutor, Sri. N. C. Priyan



CRIMINAL M.C. No.1791/2020

PETITIONER:-

Shajna N.S

By Adv. K.P. Jayachandran

COUNTER PETITIONER:-

The Inspector of Police,
Thampanoor Police Station,
Thiruvananthapuram.

By Addl. Public Prosecutor, Sri. N. C. Priyan

CRIMINAL M.C. No.1792/2020

PETITIONER:-

Sreelakshmy,

By Adv. K.P. Jayachandran

COUNTER PETITIONER:-

The Inspector of Police,
Thampanoor Police Station.

By Addl. Public Prosecutor, Sri. N. C. Priyan



By Addl. Public Prosecutor, Sri. N. C. Priyan (for CP2)

CRIMINAL M.P. No.1137/2020 in CRIMINAL M.C. 1792/2020

PETITIONER:-

Neyyattinkara P. Nagaraj, Aged 44 years,
S o. S.P. Thyagarajan, Ayyappa Nivas, Opp. Court Complex,
Neyyattinkara (PO), Trivandrum - 695 121.

COUNTER PETITIONERS:-

1. Sreelakshmi Arackal
2. State of Kerala

By Addl. Public Prosecutor, Sri. N. C. Priyan (for CP2)

These petitions together coming on for hearing on 09-10-2020 and the court on the same day passed the following:-

COMMON ORDER

Crl. M.C 1790/20, Crl. M.C 1791/20 & Crl. M.C 1792/20 are the applications for anticipatory bail u/ S. 438 of Code of Criminal Procedure filed by accused Nos. 1 to 3 respectively in Crime No. 1765/2020 of Thiruvananthapuram police station for the alleged commission of offences punishable under



Sections 452, 294(b), 323, 506, 392 and 34 IPC whereas Criminal MP Nos.1135/20, 1136/20 & 1137/20 are the petitions filed by an Advocate practicing in Thiruvananthapuram bar to get himself impleaded enabling himself to object the bail applications.

2). Prosecution allegation is that the accused persons in furtherance of their common intention committed house trespass into the lodge building where the de-facto complainant was residing and showered him with filthy words so as to vex, annoy and harass him and they voluntarily caused hurt to the de-facto complainant by beating with bare hands on his face and other parts of the body and threatened him with dire consequences. During the course of the said act, they robbed the valuable laptop, mobile phone, head set and mike owned by the de-facto complainant and he was humiliated by pouring one bottle of ink on his face and body and they even brought a nettle plant known as 'CHORIANAM', on contact with human body would cause itching and with that motive they rub the same on his body and there was an attempt to remove the dhoti worn by the de-facto complainant, but he managed to prevent the same. Thus, prosecution alleges that the accused persons have committed the offences punishable under Sections 452, 294(b), 323, 506, 392 and 34 IPC. Heard both sides.

3). Learned counsel for the petitioners Sri. K. P. J



strenuously argued that the petitioners are innocent and the 1st accused is a celebrity and dubbing artist by profession, whereas 2nd accused is a social worker and activist in various fields and 3rd accused is a B.Ed degree student who is also a social worker and activist. According to the learned counsel, 1st accused is a close friend of accused Nos. 2 & 3. On 25.09.2020 at about 9.30 p. m. 1st accused asked accused Nos. 2 & 3 to accompany her to Pulimoodu junction for a compromise talk on 26.09.2020 at 5 p. m. The issue was in relation to a programme published in You Tube channel by one Sri. Vijay P. Nair who is the de-facto complainant in the crime and the settlement talk was arranged at the place of his residence which is a lodge named "Sreenivas". Through You Tube channel, Mr. Vijay P. Nair presented a speech using derogatory and obscene language against woman and also about dubbing artist who were characterized as feminists. The 1st accused happened to see the said video on 25.06.2020 and she felt very bad and get embarrassed. Then she made enquires as to the whereabouts of the de-facto complainant and after collecting his phone number, 1st accused contacted him over phone so as to make an enquiry as to his opinion he expressed in the said video. In response thereto, de-facto complainant invited the 1st accused and her friends to his place of residence to have a compromise talk on the issue. Accordingly the petitioners went to lodge "Sreenivas"



limoodu and as and when they reached the place, the de-facto complainant started abusing the petitioners using obscene words and caused physical torture to the petitioners. According to the learned counsel, the de-facto complainant voluntarily handed over his mobile phone and laptop to the petitioners for deleting the ugly videos and messages and the petitioners collected the same and they surrendered before the Thampanoor police station and they have furnished their addresses to the police. Learned counsel submitted that the police registered a crime against the petitioners which will not sustain in the eye of law. According to the learned counsel, the petitioners are innocent and they have not committed any of the offences alleged by the prosecution. He also argued that Sec. 452 IPC and 294(b) are not go together since the impediments necessary to attract these sections are mutually exclusive.

4). Learned Additional Public Prosecutor Sri. N. C. Priyan opposed the bail applications with all vehemence and at the outset he argued that the video presented by the de-facto complainant, a vlogger through You Tube channel contain derogatory words against women and the said act had crossed all the limits of decency and the act on the part of the de-facto complainant is clearly actionable. Learned Public Prosecutor then argued that the video contains obscene, humiliating words and expressions.



not named any person specifically. On seeing this video, the petitioners on a mistaken notion felt that the contents of the said video relates to them barged into the room where the de-facto complainant was residing and he was showered with total obscene words followed by physical assault, which was captured using mobile phone as a part of their pre-planned episode. They also published the entire incident through all available medias immediately after the attack. So learned Public Prosecutor opposed the bail applications and contended that even if the de-facto complainant has committed any crime or violated the limits of decency, purity and dignity that he is expected to maintaining in the society, the petitioners are not entitled to react in this manner. According to the learned Prosecutor, the accused persons who are the petitioners have equally crossed all the limits of decency, decorum, modesty, dignity and civility of the society that is expected by the society from a social worker or activist and hence they cannot be considered as innocent persons as claimed by them. Therefore, the act on the part of the petitioners are also actionable and hence granting bail to the petitioners at this stage would send a wrong signal or message to the society. According to the learned Public Prosecutor, the action on the part of the petitioners cannot be considered as an emotional outbreak or sudden reciprocation for the mischief done by the de-facto complainant. If the said act is viewed lightly,



then lawlessness will prevail in the society.

5). Now I shall consider the application for impleadment filed by a lawyer, who claims to be a public spirited person who used to initiate public interest litigation before various Forums where public interest is involved. Petitioner claims that he is a member of Facebook friendly group "Men's Rights Association of India", legally fighting against misuse of laws. The main grievance voiced in the petition is that in India the act of outraging the modesty of a man is not considered as an offence whereas S. 354 IPC would give aid to a woman when her modesty is outraged. The next grievance voiced in the petition is to the effect that the petitioners herein are having high influence over the ruling party and hence the Public Prosecutor who is expected to protect the interest of the State and public would remain a mute spectator in the bail application and hence an opportunity of hearing shall be provided to him to address the court while considering the bail applications.

6). On a perusal of the petition averments, my faculty of intelligence is not ready to entertain the applications for impleadment for the following reasons. First of all, the learned Public Prosecutor has played his role honestly and sincerely to the utmost satisfaction of this court and he has not remained a mere onlooker, instead, he stiffly resisted the applications. Therefore, the apprehension of the petitioner that the petitioners and the State would include



each other is out of place. Secondly, if at all, the petitioner do have the grievance that no provision is incorporated in the Indian Penal Code or in other laws to protect the modesty of a man, he has to resort to such steps known to law and this court is helpless in this regard. So I made myself clear that this court finds no valid reason to entertain the impleadment applications and all the three petitions are rejected.

7). The moot question to be considered here is whether the petitioners are entitled to get any relief in these applications in a case of this nature. As rightly argued by the learned Government Pleader no citizen has got the right to take law into their hands using muscle strength so as to oppress their adversary even if he commits a wrong. Various institutions such as police stations, Courts and large number of other forums established by the State are meant for the citizens to redress their grievance. Hence every aggrieved person has to resort to such legal steps to redress their grievances and such a course alone is expected from a civilized society.

8). It is hard to believe that the petitioners went to lodge "Sreenivas" here the de-facto complainant was residing on receipt of an invitation from his part. Admittedly, the 1st petitioner felt very much disturbed on seeing the deo published by the de-facto complainant through You Tube. He had made a reference about dubbing artists. It is, therefore, clear that this court is



stified in inferring that the 1st petitioner had voluntarily went to the place residence where the de-facto complainant was residing and she was accompanied by the other petitioners. Admittedly, all the petitioners are close associates to each other. So this court can safely visualize that it was a pre-planned act and that is why one among the petitioners had captured the entire episode in her mobile phone. That apart, the three petitioners had telephonic conversation between them on the previous day and fixed time and place to meet the vlogger. So the argument advanced by the learned counsel for the petitioners that the petitioners went to "Sreenivas" lodge for a compromise talk and the de-facto complainant abused the petitioners and ultimately he handed over the mobile phone and laptop to the petitioners in order to delete the ugly messages cannot be accepted for a moment. So, what I would like to emphasise here is that the prosecution version that the petitioners committed house trespass with a clear intention to cause hurt to the de-facto complainant is evident from their own conduct. The petitioners have brought a nettle plant whose contact would cause itching on the human body. Petitioners intention is thus clear, they also brought an ink bottle so as to pour on him and thereby to humiliate him by capturing the incident in her mobile and they published the same through social and other medias immediately after the attack with a malafide intention and it became



9). The learned counsel for the petitioners argued that the petitioners have surrendered the laptop and mobile phone owned by the de-facto complainant before Thampanoor police. But that by itself will not improve their stand.

10). Learned Government Pleader argued that the severe violence displayed by the petitioners became viral since they publicized the same and this paved way for hot debate in visual medias, print medias and social medias. The manner in which the petitioners have accomplished their evil design would suggest that they came to the spot with a clear cut idea to attack the de-facto complainant since 1st accused got agitated by seeing the ugly video that was displayed at the instance of the de-facto complainant through You Tube channel. The scheme adopted by the petitioners amount to open challenge to the judicial system and other law enforcing agencies.

11). The petitioners have committed house trespass and stealthily removed the valuable articles such as laptop, mobile phone, head set and mike owned by the de-facto complainant from his possession. In these circumstances, granting anticipatory bail to the petitioners invoking S. 438 Cr.P.C would give a wrong message to the society that anybody can resort to such vandalism so as to oppress their opponents. That apart, the principle of 'might is right' will prevail in the society, which would bring



to the common man. A civilized society is expected to obey the rule of law of the country so as to maintain peace, law and order and any attack to the said fabric is actionable and cannot be viewed lightly. No one can take law into their hands on the strength of man power or muscle power. In that view of the matter, the comprehension of this court is not ready to travel with the petitioners or with the argument advanced by the learned counsel for the petitioners. Thus petitions fail and are dismissed.

In the result, all the three petitions are dismissed.

Dictated to the C.A, transcribed by her, corrected and pronounced by me in Open Court on this the 09th day of October, 2020.

Sd/-
N.SESHADRINATHAN
ADDL. SESSIONS JUDGE - II

(True Copy)

(By Order)



SHERISTADAR



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