

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.SOMARAJAN

FRIDAY, THE 13TH DAY OF NOVEMBER 2020 / 22ND KARTHIKA, 1942

Cr1.MC.No.7758 OF 2016

IN CC 350/2016 OF CHIEF JUDICIAL MAGISTRATE, KOLLAM

PETITIONERS/ACCUSED 1 TO 3:

- 1 PHILIP MATHEW, MANAGING EDITOR,
MALAYALA MANORAM COMPANAY LTD.,
PB.NO. 1652, MALAYALA MANORAMA DAILY,
KADAPPAKKADA, KOLLAM
- 2 MAMMEN MATHEW, CHIEF EDITOR,
MALAYALA MANORAMA COMPANY LTD., PB.NO. 1652, MALAYALA
MANORAMA DAILY, KADAPPAKKADA, KOLLAM
- 3 JACOB MATHEW, PRINTER ADN PUBLISHER,
MALAYALA MANORAMA COMPANY LTD., PB.NO. 1652, MALAYALA
MANORAMA DAILY, KADAPPAKKADA, KOLLAM

BY ADVS.SRI.K.P.DANDAPANI (SR.)
SRI.MILLU DANDAPANI

RESPONDENTS/COMPLAINANT:

- 1 STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, KOCHI 31
- 2 R. CHANDRASEKHARAN,
S/o RAGHAVAN PILLAI, AYIKKUMATH VEEDU,
SHOORANADU NORTH VILLAGE,
KOLLAM DISTRICT 690561

BY PUBLIC PROSECUTOR SMT. M.N.MAYA
R2 BY ADV. SRI.C.UNNIKRISHNAN (KOLLAM)

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 13.11.2020.
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

The Managing Editor, the Chief Editor and the Printer and Publisher of a daily newspaper came up to quash the proceedings initiated on the allegation of offence under Section 500 IPC through a private complaint on which cognizance was taken by the Magistrate and process was issued under Section 204 Cr.P.C. Annexure A is the copy of news item published.

2. Annexure A news item was published based on a report submitted by the Vigilance to set the criminal law in motion against the defacto complainant and three others after conducting a preliminary enquiry and recommended registration of crime against them. Going by Annexure A news item, it is clear that what is reported is the true version of report submitted by the Vigilance against the defacto complainant and three others. It is true that they were referred as accused persons in the news item, even before registration of crime in connection with the allegations.

3. What is reported is the true version of an enquiry report submitted by the Vigilance Department against the defacto complainant and three others. It is the duty of the fourth estate to publish all news materials, especially having public importance and it is their further duty to comment on the news material with its pros and cons so as to enlighten the society to remain vigil on the matters of public importance. It would squarely come under the first exception attached to Section 499 IPC, when it is done with bonafides for the public interest. The fourth estate is not expected to shy away from the matters governing public importance, but it is their solemn duty to serve the society with the news item with its pros and cons so as to bring the society more functional and vigil. The fourth estate being one of the rostrums to address and comment on each and every matters governing public interest/ public importance in a democratic society, the news item published with necessary comments, though sometimes contemptuous, may not itself amount to a defamation as defined under Section 499 IPC, unless the

same is lacking in good faith and not concerning with a matter of public interest or public good. The first proviso to Section 499 IPC has got a wide canvass in a democratic system and right to publish a news item with its necessary comments and views though sometimes contemptuous, cannot be defeated unless malafides writ large on its face and not concerning with a matter of public interest or public good. The contemptuous nature of news item, if it is connected with imputation of truth, which requires publication for the public good will not attract the offence and there shall not be any misunderstanding with respect to the requirement to attract Section 499 IPC with the first exception therein. The news item published hence will not attract the offence of defamation as defined under Section 499 IPC. It was submitted that subsequently a crime was registered against the defacto complainant and three others and a refer report was submitted subsequently.

4. The private complaint submitted is really intended to defeat the solemn function vested with the fourth estate and it will tell upon what is behind it. It is an abuse of the process of court, liable to be

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quashed. Hence the private complaint and the further proceedings are hereby quashed.

Cr1.M.C. is allowed.

Sd/-

P . SOMARAJAN

JUDGE

DMR/-

APPENDIX

PETITIONERS' ANNEXURES:

- ANNEXURE A TRUE COPY OF THE NEWS ITEM PUBLISHED IN MALAYALA MANORAM DAILY DATED 02.01.2016
- ANNEXURE B TRUE COPY OF THE LAWYER NOTICE ISSUED ON BEHALF OF THE 2ND RESPONDENT
- ANNEXURE C TRUE COPY OF THE COMPLAINT CMP.NO. 350/2016 DATED NIL
- ANNEXURE D TRUE COPY OF THE SUMMONS ISSUED FROM THE CHIEF JUDICIAL MAGISTRATE COURT, KOLLAM SUMMONING THE PRESENCE OF THE PETITIONERS BEFORE THE COURT ON 15.11.2016
- ANNEXURE E TRUE COPY OF THE RELEVANT PAGES OF QUICK VERIFICATION REPORT DATED 23.12.2015
- ANNEXURE F TRUE COPY OF THE FIR DATED 27.07.2016

RESPONDENTS' ANNEXURES: NIL

// TRUE COPY //

P.A. TO JUDGE