



2024:KER:49097

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

TUESDAY, THE 2ND DAY OF JULY 2024 / 11TH ASHADHA, 1946

CRL.MC NO. 5613 OF 2024

CRIME NO.2539/2023 OF ATTINGAL POLICE STATION, THIRUVANANTHAPURAM
IN CC NO.45 OF 2024 OF JUDICIAL MAGISTRATE OF FIRST CLASS-I, ATTINGAL

PETITIONER/ACCUSED:

ARUN S
AGED 51 YEARS
S/O SUKUMARAN NAIR G, INDU (H), PUNNATHALA,
THIRUMULLAVARAM P O, KOLLAM, PIN - 691012
BY ADVS.
P.RAHUL
ARUL MURALIDHARAN
ABHINA L.

RESPONDENT/COMPLAINANT:

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

PP - M P PRASANTH

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
02.07.2024, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**“C.R”****ORDER****Dated this the 2nd day of July, 2024**

This Criminal Miscellaneous Case has been filed under Section 482 of the Code of Criminal Procedure, 1973, to quash all further proceedings pursuant to Annexure.A1 FIR and Annexure.A2 Final Report in Crime No.2539/2023 of Attingal Police Station, now pending as C.C. No.45/2024 on the files of the Judicial First Class Magistrate Court-I, Attingal. The petitioner is the sole accused in the above case.

2. Heard the learned counsel for the petitioner and the learned Public Prosecutor, in detail. Perused the relevant materials available.

3. Summary of the prosecution case is that, at about 14.30 hours on 16.11.2023, the accused herein showed sexual gestures which would degrade the dignity of women near KSRTC Bus Depot, Attingal, as against prohibition contained in the Kerala Police Act. Accordingly,



the prosecution alleges commission of offence punishable under Section 119(1)(a) of the Kerala Police Act, 2011 [hereinafter referred as 'KP Act' for short] by the accused.

4. While assailing the Final Report, the learned counsel for the petitioner submitted that either in the FIR or in the Final Report, the overt acts in the form of sexual gestures at the instance of the accused, which would attract the offence under Section 119(1)(a) of the KP Act are not disclosed. He has placed a decision reported in ***Arun v. State of Kerala [2019 (3) KHC 132 : 2019 (2) KLT 906 : ILR 2019 (3) Ker. 375 : 2019 (3) KLJ 660]***, wherein this Court considered a similar case and quashed the proceedings therein for want of disclosure of the sexual gestures or acts in the Final Report.

5. The learned Public Prosecutor, though supported the Final Report he also failed to point out what are the sexual gestures or acts performed by the petitioner, which would warrant penal consequences under Section 119(1) (a) of the KP Act.

6. Reading Section 119(1)(a) of the KP Act, it has



been provided that, any person who,— (a) performs, in public places, any sexual gestures or acts degrading the dignity of women, is an offence. Thus, performing of any sexual gestures or acts in public places degrading dignity of women is the essential ingredient to constitute an offence punishable under Section 119(a) of the KP Act. If the sexual gestures or acts performed by the accused could not be discernible from the FIR, Final Report or other materials, mere assumption of the Detecting Officer as well as the Investigating Officer that the accused performed or showed sexual gestures or acts degrading the dignity of women, keeping the gestures or acts in his mind in secrecy, would not suffice to constitute an offence under Section 119(1)(a) of the KP Act.

7. Since, the prosecution materials do not suggest what actually the sexual gestures or acts performed by the accused, entire prosecution is found to be meritless and baseless. Therefore, the quashment sought for on the said ground is liable to be allowed.

8. Accordingly, this petition stands allowed and all



further proceedings pursuant to Annexure.A1 FIR and Annexure.A2 Final Report in Crime No.2539/2023 of Attingal Police Station, now pending as C.C. No.45/2024 on the files of the Judicial First Class Magistrate Court-I, Attingal stand quashed.

Registry is directed to forward copy of this order to the Director General of Police, with direction to forward the same to all Station House Officers in the State for information and future follow up.

**Sd/-
A. BADHARUDEEN
JUDGE**

SK



APPENDIX OF CRL.MC 5613/2024

PETITIONER ANNEXURES :

- Annexure A1** CERTIFIED COPY OF THE FIR IN CRIME NO. 2539/2023 OF ATTINGAL POLICE STATION DATED 16.11.2023
- Annexure A2** CERTIFIED COPY OF THE FINAL REPORT SUBMITTED BY THE SUB INSPECTOR OF POLICE, ATTINGAL POLICE STATION, BEFORE THE JUDICIAL FIRST-CLASS MAGISTRATE COURT-I, ATTINGAL, IN CRIME NO. 2539/2023 OF ATTINGAL POLICE STATION DATED 22.11.2023

RESPONDENTS' ANNEXURES : NIL