



2025:KER:75566

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE V.G.ARUN

THURSDAY, THE 9TH DAY OF OCTOBER 2025/17TH ASWINA, 1947

CRL.MC NO. 7737 OF 2025

CRIME NO.1698/2019 OF ERNAKULAM CENTRAL POLICE STATION, ERNAKULAM
AGAINST THE ORDER/JUDGMENT IN CC NO.210 OF 2022 OF JUDICIAL
MAGISTRATE OF FIRST CLASS -II, ERNAKULAM

PETITIONER/ACCUSED:

MANU S
AGED 38 YEARS, S/O LATE SUBHEESHANAN,
VALIYAPARAMBIL HOUSE, KUZHUPPILLY, AYYAMPILLY P O,
ERNAKULAM DISTRICT, PIN - 682501

BY ADVS.
SHRI.SUVIN.R.MENON
SMT.PARSHATHY S.R.
SHRI.ACHUTH KRISHNAN R.
SMT.CRISTY THERASA SURESH

RESPONDENTS/STATE:

- 1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, PIN - 682031
- 2 STATION HOUSE OFFICER
ERNAKULAM CENTRAL POLICE STATION
OLD RAILWAY STATION ROAD,
NEAR KERALA HIGH COURT,
ERNAKULAM, KERALA, PIN - 682018



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SRI. VIPIN NARAYANAN, PP.

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
09.10.2025, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:



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V.G.ARUN, J

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Crl.M.C.No.7737 of 2025

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Dated this the 9th day of October, 2025

ORDER

The petitioner is the accused in Crime No.1698 of 2019 registered at the Ernakulam Central Police Station, now pending as C.C.No.210 of 2022 on the files of the Judicial First Class Magistrate Court-II, Ernakulam. Therein the petitioner is facing charges for offences under Sections 505(1)(b) of the Indian Penal Code and 118(b), 118(c) and 120(o) of the Kerala Police Act, 2011. The case originated from Crime No.1698 of 2019 registered *suo motu* by the Ernakulam Central Police Station in relation to a comment posted in the Facebook account by the petitioner on 11.08.2019, a rough translation of which reads as under;

'if anyone wants to help, they can do it directly. Pinarayi is agitated for not getting the amount directly and if paid, it will be swindled'.



2. The learned Counsel for the petitioner contended that every citizen has the right to criticize the Government and such criticism cannot result in prosecution. The right to freedom of expression guaranteed under Article 19(1) of the Constitution cannot be curtailed, except for justifiable reasons. The petitioner's Facebook post does not affect the sovereignty and integrity of India, the security of the State, friendly relations with Foreign States, public order, decency or morality and does not amount to contempt of Court, defamation or incitement to an offence. Therefore, the petitioner's prosecution for offences under Sections 505(1)(b) of IPC and 118(b) & 118(c) read with 120(o) of the Kerala Police Act amounts to an abuse of process of court. To buttress the argument reliance is placed on this Court's decision in **Gowri Sankari V.S. and Another v. State of Kerala and Others** [2025 6 KHC 184].

3. Learned Public Prosecutor submitted that the call for contribution was made to provide relief to persons in distress and the attempt was to derail the Government's efforts.



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According to the Public Prosecutor, the then prevailing circumstances ought to be borne in mind while considering the challenge. It is also contended that the offence Section 118(c) of the Kerala Police Act is attracted since contribution to the CMDRF was being utilised to provide essential services to the needy.

4. Freedom of speech and expression is a fundamental right guaranteed to every citizen by our great Constitution. The right to criticise the policies and actions of the Government and those at the helm of affairs is ingrained in this fundamental right. As held by the Apex Court in **Shreya Singhal v. Union of India** [(2015) 5 SCC 1], when it comes to democracy, liberty of thought and expression is a cardinal value and is of paramount significance under a democratic constitution which envisages changes in the composition of legislatures and Governments. Free flow of opinions and ideas is essential to sustain the collective life of the citizenry. Fear of setback to Government's initiatives, due to expression of opinion or



dissent by a citizen, cannot result in Article 19(2), restricting the freedom of speech and expression, being brought into play. Only if the comment reaches the level of incitement would Article 19(2) kick in and only at that stage can there be prosecution under a law curtailing the speech or expression that tends to cause public disorder or tends to affect the sovereignty and integrity of India, the security of the State. In the case at hand also, merely because the petitioner's comment is not be palatable to a section of people, that, by itself, is sufficient to initiate criminal action.

5. The next question is whether the ingredients necessary for constituting the alleged offences are made out. In order to attract the offence under Section 505(1)(b) of IPC, the accused must have made published or circulated any statement, rumour or report with intent to cause fear or alarm to the public or to any section of the public, whereby a person is induced to commit an offence against the State or against the public tranquility. By no stretch of imagination can the Facebook



comment posted by the petitioner be held as one intended to cause fear or alarm to the public, to such an extent as to induce any person to commit an offence against the State or against the public tranquility.

6. In order to attract the offence under Section 118(c) of the Kerala Police Act, the accused must have knowingly or willfully caused damage to an essential service in order to create general panic among the public. The prosecution has no case that, by his act, the petitioner had caused any damage to an essential service. Section 120(o) will not be attracted unless the accused had made a nuisance of himself by repeated or undesirable call, letters, messages etc. Therefore, the solitary comment by the petitioner is not sufficient to constitute the offence.

The remaining offence is under Section 118(b) of the Kerala Police Act, extracted below for easy reference;

‘118 Penalty for causing grave violation of public
order or danger - Any person who,-

(a)



(b) knowingly spreads rumours or gives false alarm to mislead the police, fire brigade or any other essential service..”

As contended by the learned counsel for the petitioner, when the expression ‘essential service’ is considered *ejusdem generis* with the other expressions, the call for voluntary contribution made by the Government cannot be understood as essential service falling within the ambit of Section 118(b). In this context, it will be apposite to refer Section 82 of the Kerala Police Act dealing with the rendering of essential service by certain group of persons. The said provision reads as under;

“82 Persons to render essential services -(1) The District Magistrate or the Government may after considering the situation prevailing in any local area for the purpose of maintaining peace or for the avoidance of danger to the public or for the prevention of any danger to life and property arising from any type of accident or disaster, request the professional, mental or physical services of any person or group of persons, institutions and such persons or groups or institutions shall be bound to render such services to the best of their ability

(2) The persons or institutions who render such services shall be eligible for reasonable remuneration as well as



reimbursement of expenses incurred by them and the District Magistrate shall take appropriate action for such payments to them”.

7. On a conjoint reading of Sections 118(b) and 82 of the Kerala Police Act, it is clear that the essential service mentioned in Section 118(b) is the service which certain specified group of persons and institutions are bound to render when called upon to do so by the District Magistrate or the Government. Being a penal provision, Section 118 (b) has to be interpreted strictly and hence, essential services can only be those mentioned in Section 82 of the Kerala Police Act viz., essential services rendered by police, fire brigade and persons or institutions bound to act as per the directions of the Government or District Magistrate.

8. Although learned Public Prosecutor referred to the definition of essential services in the Essential Services Maintenance Act, 1981, I am of the firm view that the definition under that Act cannot be adopted for prosecuting a person for the offence under Section 118(b) of the Kerala



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Police Act. Moreover, services rendered to the victims of natural calamities do not find a place in the definition of essential service in the Kerala Essential Services Maintenance Act also.

For the aforementioned reasons, the Crl.M.C is allowed. Annexure A2 final report and all further proceedings in Crime No.1698 of 2019 of Ernakulam Central Police Station now pending as C.C.No.210 of 2022 on the files of the JFMC-II, Ernakulam, as against the petitioner, are quashed.

sd/-

V.G.ARUN, JUDGE

sj/ARK



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APPENDIX OF CRL.MC 7737/2025

PETITIONER ANNEXURES

Annexure A1	TRUE COPY OF THE FIRST INFORMATION REPORT DATED 12.08.2019 IN CRIME NO. 1698 OF 2019 ON THE FILES OF ERNAKULAM CENTRAL POLICE STATION
Annexure A2	TRUE COPY OF THE FINAL REPORT DATED 15.02.2020 IN CRIME NO. 1698 OF 2019 FILED BEFORE THE COURT OF JUDICIAL FIRST CLASS MAGISTRATE - II, ERNAKULAM