



2025:KER:24265

Crl.M.C.No.2527/2018

-1:-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE G.GIRISH

MONDAY, THE 24<sup>TH</sup> DAY OF MARCH 2025 / 3RD CHAITHRA, 1947

CRL.MC NO. 2527 OF 2018

CRIME NO.444/2017 OF ATHOLI POLICE STATION, KOZHIKODE

AGAINST THE ORDER IN CC NO.50 OF 2018 OF JUDICIAL MAGISTRATE OF  
FIRST CLASS - II, PERAMBRA

PETITIONER/ACCUSED:

DR.G.HARIDAS  
AGED 62 YEARS  
S/O.LATE CS GOVINDA WARRIER,  
H.NO.12, NETAJI NAGAR, KOOTTOOLI.P.O.,  
CALICUT 673 016.

BY ADVS. SRI.SHYAM PADMAN  
SRI.C.M.ANDREWS  
SMT.ANITYA ANNIE MATHEW  
SMT.BOBY M.SEKHAR  
KUM.LAYA MARY JOSEPH  
SRI.P.T.MOHANKUMAR  
SMT.NEETHU RAVIKUMAR  
SMT.REVATHY P. MANOHARAN

RESPONDENTS/STATE & DE FACTO COMPLAINANT:

- 1 STATE OF KERALA  
REPRESENTED BY THE PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM -682031.
- 2 SETLANA  
AGED 29 YEARS, W/O.ABIN RAJ, BHAVANA (H),  
KOLAKKAD.P.O., KANNUR -670 673.
- 3 ABHIN RAJ  
AGED 29 YEARS, S/O.BHASKARAN, BHAVANA (H),  
KOLAKKAD.P.O., KANNUR -670 673.

BY ADV P.V.ANOOP R2,R3  
SMT. SEETHA S., SR. PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON  
24.03.2025, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:



## **ORDER**

The accused in C.C.No.50/2018 on the files of the Judicial First Class Magistrate Court-II, Perambra, has filed this petition under Section 482 of the Code of Criminal Procedure, 1973(*in short, 'Cr.PC'*), to quash the proceedings against him in the said case.

2. The prosecution case is that on 02.09.2017, at about 2:00 pm, while the petitioner was working as Gynecologist in Malabar Medical College, he outraged the modesty of a lady, who was admitted in that hospital for abortion of pregnancy. It is alleged that the petitioner, with sexual instincts, pressed the breasts of that lady, and hugged her at the labour room of that hospital.

3. A Senior Civil Police Officer, holding charge of the SHO of Police, Atholi, registered this crime on 08.09.2017, on the basis of a complaint preferred by the husband of the victim lady. After the completion of the investigation, the SI of Police, Atholi, filed the final report, alleging the commission of offence under Section 354 of the Indian Penal Code, 1860(*in short, 'IPC'*), by the petitioner.

4. In the present petition, the petitioner would contend that the indictment against him in this final report is totally baseless, and



that he did not commit any such offence as alleged by the prosecution. According to the petitioner, the de facto complainant might have preferred the complaint due to the ignorance and misunderstanding of the procedure involved in MTP. It is further stated that the final report has been laid without proper investigation.

5. Heard the learned counsel for the petitioner and the learned Public Prosecutor representing the State of Kerala.

6. The specific allegation against the petitioner is that, while he was treating the victim lady (CW1), for Medical Termination of Pregnancy at the labour room of Malabar Medical College, at about 2:00 pm, on 02.09.2017, he, with sexual motives, grabbed the breasts of that lady and hugged her. The misbehaviour in the above regard is said to have been revealed by the lady to her husband on 07.09.2017, as the reason for her refusal for approaching the same Doctor for the next consultation.

7. The learned counsel for the petitioner would contend that it is beyond the comprehension of ordinary prudence to think that a Gynecologist of the stature of the petitioner would resort to such a wretched act at the labour room of a hospital in the presence of the



Nurses and House Surgeons, who were assisting him. To substantiate the above argument, the learned counsel for the petitioner referred to the statements given by CW3 to CW6 to the Investigating Officer. Among the above witnesses, CW3 and CW5 were the duty Nurses, who attended the treatment given to the victim lady at the relevant time, and CW4 & CW6 were the House Surgeons who were said to have been there at the labour room, when the incident is alleged to have taken place. It is true that all the above witnesses had stated to the Investigating Officer that they did not see the petitioner misbehaving with the victim lady, while administering treatment to her for MTP on 02.09.2017. However, CW3, the duty Nurse as well as CW4, the House Surgeon, who were present there at the relevant time, had stated that they saw the petitioner pressing the breasts of the patient and asking her whether she is still feeding. According to CW4, the petitioner would have done so, since the patient might have complained about pain or swelling of her breasts. Therefore, the aforesaid statements given by CW3 & CW4 to the Investigating Officer would, to a certain extent, substantiate the allegation of the victim lady that the petitioner had pressed her breasts at the time of



administering treatment for MTP. It is also pertinent to note that, if the above act on the part of the petitioner was in response to a complaint by the patient about swelling or pain on her breasts, she would not have complained about the same to her husband and refused to meet the petitioner for the next consultation.

8. The learned counsel for the petitioner argued that the objectionable acts attributed to the petitioner, cannot be said to be alien to the established medical protocol, while administering treatment of MTP. It is thus pointed out that the victim lady might have complained to her husband due to a misunderstanding about the examination done by the petitioner. In this context, it has to be stated that normally a woman of ordinary prudence would be able to identify the violations made upon her body with lascivious motives, and other innocuous touches or advances, whether it be as part of treatment protocol or otherwise. Anyway, it is a matter to be dealt with by the Trial Court while evaluating the evidence adduced by the prosecution. In a proceeding under Section 482 Cr.PC, it is not possible for this Court to derive inferences on the above aspects. As matter stands now, the materials collected by the investigating agency in support of



the final report filed in this case are capable of making out the offence under Section 354 IPC alleged against the petitioner. The reliability of the aforesaid evidence is to be tested in the trial before the learned Magistrate. The inherent powers of this Court under Section 482 Cr.PC, cannot be invoked in the facts and circumstances of the present case to terminate the prosecution proceedings at the threshold. Accordingly, I find that the prayer in this petition to quash the proceedings against the petitioner, cannot be allowed.

In the result, the petition is hereby dismissed. The observations made in this order are solely for the purpose of elaborating the scope of invoking the inherent powers of this Court under Section 482 Cr.PC in the facts and circumstances of the case. The Trial Court shall decide the case untrammelled by those observations.

(sd/-)

**G. GIRISH, JUDGE**

DST



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APPENDIX

**PETITIONER ANNEXURES**

- ANNEXURE A1-** CERTIFIED COPY OF THE FIR IN CRIME NO.444/2017 DATED 08/09/2017.
- ANNEXURE A2-** CERTIFIED COPY OF THE SCENE MAHAZAR IN CRIME NO.444/2017 DATED 09/09/2017.
- ANNEXURE A3-** CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.444/2017 DATED 24/11/2017.
- ANNEXURE A4-** TRUE COPY OF THE TREATMENT RECORDS OF THE PETITIONER OBTAINED FROM THE MEITRA HOSPITAL IP NO.18.02.782.
- ANNEXURE A5** TRUE COPY OF THE STATEMENT OF THE WITNESSES IN C.C.NO.50/2018 PENDING BEFORE THE JUDICIAL FIRST-CLASS MAGISTRATE COURT - II, PERAMBRA