

**Mini Vs. State of Kerala**

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**Court :** Kerala

**Decided On :** Jan-21-2013

**Judge :** Honourable Mr.Justice T.R.Ramachandran Nair

**Appellant :** Mini

**Respondent :** State of Kerala

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR MONDAY, THE 21ST DAY OF JANUARY 2013 1ST MAGHA 193 CrI.MC.No. 186 of 2013 ----- CR.M.P.7752/2011 of CHIEF JUDICIAL MAGISTRATE COURT,KOLLAM (IN OS.366/2011 of SUB COURT,KOLLAM DATED 22 11-2011 CRIME NO.886/2011 OF KOLLAM WEST POLICE STATION, KOLLAM) PETITIONER(S)/ACCUSED 4 AND 5.----- 1. MINI, AGED 3 YEARS, D/O.PADMAKUMARY AMMA RESIDING AT KALANCHEZHICATHU VEEDU KAIKULANGARA CHERRY,CUTCHERY P.O.,KOLLAM-691013.

2. UNNIKRISHNAN, AGED 3 YEARS, S/O.GOPALAN NAIR, RESIDING AT KALANCHEZHICATHU VEEDU, KAIKULANGARA CHERRY, CUTCHERY P.O.,KOLLAM-691013. BY ADV. SRI.LEO GEORGE. RESPONDENT(S)/STATE AND THE COMPLAINANT: ----- 1. STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

2. KABEER M., S/O.MUHAMMED KUNJU, THENGINAZHIKATHU VEEDU, HOUSE NO.13/134, THATTAMALA P.O., PINAKKAL CHERRY, KOLLAM. BY PUBLIC PROSECUTOR SMT. V.H.JASMINE. THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 21-01-2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: rvs. CrI.MC.No. 186 of 2013 APPENDIX PETITIONERS ANNEXURES : ANNEXURE A1 : TRUE COPY OF THE DOCUMENT NO.787/2000 OF KOLLAM SRO DATED 01 03/2000. ANNEXURE A2 : TRUE COPY OF THE DOCUMENT NO.2765/2010 OF KOLLAM SRO DATED 29 09/2010. ANNEXURE A3 : TRUE COPY OF the PLAINT IN O.S.NO.366/2011 ON THE FILE OF THE SUB COURT, KOLLAM DATED 03 05/2011. ANNEXURE A4 : TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE SECOND RESPONDENT IN O.S.NO.366/2011 ON THE FILES OF SUB COURT, KOLLAM DATED 22 11/2011. ANNEXURE A5 : TRUE COPY OF CRL.M.P. NO.7752/2011 ON THE FILES OF CHIEF JUDICIAL MAGISTRATE COURT, KOLLAM. ANNEXURE A6 : TRUE COPY OF THE FIRST INFORMATION REPORT IN CRIME NO. 886/2011 ON THE FILES OF KOLLAM WEST POLICE STATION. RESPONDENTS ANNEXURES : NIL. /True Copy/ P.A.TO JUDGE rvs. T.R. RAMACHANDRAN NAIR, J.

~~~~~ Criminal

M.C.No.186/2013

~~~~~ Dated this the 21st day of January, 2013

## ORDER

Both these petitioners have approached this Court seeking to quash Annexure-A5 complaint and Annexure-A6 First Information Report. The said complaint has been filed under Section 190 of the Code of Criminal Procedure.

2. The petitioners are accused Nos.4 and 5 in the said complaint. The offences alleged are under Sections 419, 420 and 120B of the Indian Penal Code.

3. Learned counsel for the petitioners submitted that no allegations have been made out in Annexure-A5 and in the First Information Report which has been registered as shown. It is submitted that the complaint is filed after the filing of O.S.No.366/2011 in which they are plaintiffs. It is submitted that in the averments in para.11 of Annexure- A5 are two ways to cause any investigation into the said

allegation. There is no specific allegation also with regard to the alleged impersonation or that the third counter petitioner therein one Smt.Maya had two different passports. Therefore, it is only a speculation, according to the learned counsel for the petitioners.

4. Learned Public Prosecutor submitted that the matter is still under investigation and it is too premature for this Court at this stage to quash the complaint. Crl.M.C No.186/2013 -:2:- 5. Of course, in a case where no offences have been made out, even on a prima facie consideration of allegations this Court will be justified in quashing the same. Evidently, civil suit is pending between the parties also. Therefore, all these aspects will be considered by the investigating officer during the investigation of the crime.

6. After the investigation also, if no case is made out they can refer the matter. Therefore, in the initial stage it may not proper for this Court to quash the complaint itself as the petitioners can approach the appropriate court at the later stage of the case.

7. In that view of the matter, the criminal miscellaneous case is disposed of leaving open the remedy of the petitioners to approach the court below at the appropriate stage if after investigation a final report is filed against them. Learned counsel for the petitioners submitted that the petitioners are apprehending arrest also and it is submitted that the first petitioner being a women, she would be highly prejudiced in the matter. They will be free to put in application for bail before the concerned court. The criminal miscellaneous case is accordingly disposed of. Sd/- (T.R. Ramachandran Nair, Judge.) ms

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