

**Satheesh Kumar vs State of Kerala**

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**Court :** Kerala Orders

**Decided On :** Feb-27-2023

**Judge :** Honourable Mr. Justice Bechu Kurian Thomas

**Appeal No. :** Crl.MC/737/2023

**Appellant :** Satheesh Kumar

**Respondent :** State of Kerala

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS MONDAY, THE 27TH DAY OF FEBRUARY 2023 / 8TH PHALGUNA, 1944 CRL.MC NO. 737 OF 2023 CRIME NO.1583/2022 OF PUNALUR POLICE STATION,KOLLAM RURAL PETITIONERS/ACCUSED 1 & 2:

1 SATHEESH KUMAR AGED 58 YEARS S/O NARAYANAN ROHINI, KAKKODU P.O., PUNALUR, KOLLAM, (MANAGING DIRECTOR, KUMAR PALACE HOTEL AND BAR, PUNALUR, KOLLAM.), PIN - 691331 2 AMAL SATHEESH KUMAR AGED 26 YEARS, S/O. SATHEESH KUMAR, ROHINI, KAKKODU P.O., PUNALUR,

KOLLAM,PIN - 691331 (DIRECTOR, KUMAR PALACE HOTEL AND BAR, PUNALUR, KOLLAM.) BY ADVS. P.MOHANDAS (ERNAKULAM) K.SUDHINKUMAR SABU PULLAN GOKUL D. SUDHAKARAN R.BHASKARA KRISHNAN

RESPONDENTS/STATE, COMPLAINANT & DEFACTO COMPLAINANT: 1 STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031 2 THE SUB INSPECTOR OF POLICE PUNALUR POLICE STATION, KOLLAM RURAL, KOLLAM, PIN - 691555 3 RATHEESH S. MANAGER, NARENDRA REGENCY HOTEL AND RESTAURANT, PUNALUR, KOLLAM, PIN - 691555 BY ADV NIREESH MATHEW OTHER PRESENT: SRI. NOUSHAD.K.A PUBLIC PROSECUTOR THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 27.02.2023, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**BECHU KURIAN THOMAS, J.**

===== Dated this the  
27th day of February, 2023

## **ORDER**

Petitioners challenge the registration of Crime No.1583/2022 of Punalur Police Station, Kollam Rural, alleging offences punishable under Sections 447, 270 and 277 r/w Section 34 of the Indian Penal Code, 1860, apart from Sections 118(e) and 120(e) of the Kerala Police Act, 2011.

2. According to the defacto complainant on 04.09.2022, between

2.15 am and 2.30 am, four cans allegedly contain human excreta was found inside the water tank of the hotel of which the 3 rd respondent is the Manager. The defacto complainant alleged that, the offending act was done with the intention of causing damage and nuisance to its customers. On the above basis, the

aforementioned crime was registered, arraying petitioners as accused 1 and 2 along with an unknown 3rd person.

3. Adv. K.P. Satheesan, the learned Senior Counsel instructed by

Adv. Gokul D. Sudhakaran, submitted that the rivalry between two business entities indulging in similar line of business is the cause of the complaint and petitioners have absolutely no connection with the crime. It was also stated by the learned Senior Counsel, that no material whatsoever has been seized by the Investigating Officer till date and therefore continuing the petitioners as accused in the party

array is causing irreparable prejudice and loss. The learned Senior Counsel also contended that petitioners are innocent and have been arrayed as accused on the basis of assumptions, surmises and also due to malafides and therefore the proceedings ought to be quashed. He further submitted that, when the alleged incident is stated to have taken place on 04.09.2022, the FIR itself is filed only on 11.10.2022, which is also indicative of the falsity of the prosecution case.

4. Sri. Nireesh Mathew, the learned counsel for the defacto

complainant on the other hand submitted that, the matter is presently under investigation and therefore this Court ought not to interfere. It was further stated that even though the defacto complainant had not seen the petitioners, still the Police has to trace out the culprits involved.

5. Sri. Noushad. K.A, the learned Public Prosecutor, upon

instructions, submitted that the Investigating Officer has filed a report stating that the case is under investigation and that investigation is continuing for obtaining report from the forensic lab. It was also stated that the C.C.TV footage reveals that someone criminally trespassed into the premises of the hotel of the defacto complainant and put four cans into two water tanks. It was further stated that there is nothing to prove that petitioners had any role as per the investigation conducted till date and therefore, there is no intent to arrest the petitioners at present.

6. The aforesaid submissions are recorded. In view of the above,

the learned Senior Counsel for the petitioners submits that the Crl.M.C. can be closed. Accordingly, this Crl.M.C is closed. Sd/- BECHU KURIAN THOMAS JUDGE jka APPENDIX OF CRL.M.C.NO.737/2023 PETITIONERS ANNEXURES Annexure-I CERTIFIED COPY OF THE F.I.R. IN CRIME NO. 1583/2022 OF PUNALUR POLICE STATION DATED 11-10-2022 Annexure-II TRUE COPY OF THE WRITTEN COMPLAINT FILED BY THE 3RD RESPONDENT DATED 15-10-2022

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