

**Ratheesh vs State of Kerala**

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**SooperKanoon Citation :** [sooperkanoon.com/1465768](https://sooperkanoon.com/1465768)

**Court :** Kerala Orders

**Decided On :** May-31-2022

**Judge :** Honourable Mr.Justice Ziyad Rahman a.a.

**Appeal No. :** Crl.MC/2091/2022

**Appellant :** Ratheesh

**Respondent :** State of Kerala

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.  
TUESDAY, THE 31ST DAY OF MAY 2022 / 10TH JYASHTA, 1944  
CRL.MC NO. 2091 OF 2022 [IN C.C.NO.66/2022 ON THE FILE OF  
JUDICIAL FIRST CLASS MAGISTRATE COURT-IV, PERUMBAVOOR]  
PETITIONER/PETITIONER: RATHEESH AGED 38 YEARS SON OF  
RAVI,CHETHIKATTIL HOUSE,KADAPPARA KARA,  
MALAYATTOOR,ALUVA THALUK, PIN - 683587 BY ADV AJEESH M.  
UMMER RESPONDENT/RESPONDENT: STATE OF KERALA  
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF  
KERALA, ERNAKULAM PIN - 682031 BY ADV PUBLIC PROSECUTOR  
OTHER PRESENT: ADV. C S HRITHWIK- PP THIS CRIMINAL MISC.

CASE HAVING COME UP FOR ADMISSION ON 31.05.2022, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: CRL.MC No.2091 of 2022 2

## ORDER

The petitioner who is the 2nd accused in C.C.No.66/2022 pending before the Judicial First Class Magistrate Court-IV, Perumbavoor has filed

this Cr1.M.C for quashing all fu

Section 34 of the Indian Penal Code (IPC).

2. The allegation is that, the 1st accused trespassed into the courtyard of the house of the defacto complainant on several days between January 2021 and December 2021 and he also made a statement publicly that he will kill the defacto complainant and his brother within 90 days.

3. The allegation against the petitioner is that, the aforesaid threat was made with the

CRL.MC No.2091 of 2022 3 knowledge and instigation of the petitioner for compelling the defacto complainant to settle a case in which the petitioner was an accused. Annexure-1 is the F.I.R. and Annexure-2 is the final report.

4. The learned counsel for the petitioner submits that, the materials available on record

are not sufficient to establish the offence under Section 109 of the IPC. It is pointed out that, none of the witnesses have mentioned about the specific role played by the petitioner in the commission of the crime and the only allegation is that the commission of the said offences made by the 1st accused was with the knowledge of the petitioner herein.

5. Heard both sides.

6. I have gone through the records. On carefully gone through the same, I am of the view that, this is not a fit case in which the

CRL.MC No.2091 of 2022 4 interference can be made by invoking Section 482 of the Cr.PC. This is particularly because, the petitioner has a remedy to approach the learned Magistrate and seek for discharge. In such circumstances, this Crl.M.C. is disposed of without prejudice to the remedies and contentions of the petitioner. However, it is made clear that, if any such application for discharge is submitted by the petitioner before the learned Magistrate within a period of three weeks from today, the same shall be taken up and

considered by the learned Magistrate in accordance with law, within a period of three months from the date of submission of such application. Sd/- ZIYAD RAHMAN A.A. JUDGE pkk CRL.MC No.2091 of 2022 5 APPENDIX OF CRL.MC 2091/2022 PETITIONER ANNEXURES Annexure1 FIR & FIS IN CRIME 03 OF 2022 OF KALADY POLICE STATION Annexure2 CERTIFIED COPY OF FINAL REPORT IN CRIME 03 OF 2022 OF KALADY POLICE STATION

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