



CRL.MC NO. 6527 OF 2024

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2024:KER:79761

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

FRIDAY, THE 25TH DAY OF OCTOBER 2024 / 3RD KARTHIKA, 1946

CRL.MC NO. 6527 OF 2024

CRIME NO.29/2023 OF VADANAPPALLY POLICE STATION, THRISSUR

SC NO.154 OF 2024 OF SESSIONS COURT, THRISSUR IN CP

NO.76 OF 2023 OF JUDICIAL MAGISTRATE OF FIRST CLASS, CHAVAKKAD

PETITIONER/ACCUSED:

XXXXXXXXXX
XXXXXXXXXX

BY ADV RAJIT

RESPONDENTS/STATE & DE FACTO COMPLAINANT:

1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM, PIN - 682031

2 XXXXXXXXXXXX
XXXXXXXXXXXX

R1 BY PUBLIC PROSECUTOR SRI.M.P.PRASANTH

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 25.10.2024, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:



CR

ORDER

Dated this the 25th day of October, 2024

This Criminal Miscellaneous Case has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to quash Annexure 4 summons and Annexure 3 Final Report and all further proceedings in S.C.No.154/2024 on the files of the Additional Sessions Court-1, Thrissur, arose out of C.P.No.76/2023 on the files of the Judicial First Class Magistrate Court, Chavakkad in Crime No.29/2023 of Vadanapally police station, Thrissur. The petitioner herein is the accused in the above case.

2. Heard the learned counsel for the petitioner and the learned Public Prosecutor. Perused the relevant records.

3. Although notice served upon the 2nd respondent, no appearance.

4. Here, the prosecution alleges commission of offences punishable under Section 324 of the Indian Penal Code as well as Section 75 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short, 'the JJ Act' hereinafter). The



specific allegation is that, the accused herein, who is none other than the teacher of the victim, who was studying in 7th Std., beat the victim, when the teacher noticed that he was sitting at the class after placing his legs on the top of the desk. The further allegation is that, the teacher caught hold on his ears and thereby, sustained injuries. Accordingly, the prosecution alleges commission of the above offences.

5. While seeking quashment of the proceedings, it is submitted by the learned counsel for the petitioner that, in this case, no serious injuries sustained to the victim. It is specifically pointed out that, in the statement given by the victim in support of the prosecution case, it is admitted that, at the time of occurrence, the teacher questioned when the victim had placed his legs on the top of the desk while sitting, he called the teacher an abusive word, viz., "വീട്ടിൽ ചെയ്യുന്നത് പോലെ ഇവിടെ ചെയ്യരുത് എന്ന് പറഞ്ഞു. എന്റെ വീട്ടിലുള്ളവരെ പറഞ്ഞത് കൊണ്ട് ടീച്ചറെ ഞാൻ പോടീ മൈദേ എന്ന് വിളിച്ചു." and in turn, the teacher beat him by using a stick and sent him out. The learned counsel for the petitioner placed decision of this Court in **Sindhu Sivadas v. State of Kerala** reported in **[2024 KLT OnLine 2559]**, to contend that, in this matter, when the teacher saw the student sitting by placing his legs on the



top of the desk at the class, as a response, the teacher instructed him to remove it and soon the victim abused the teacher by calling a word and in turn, the teacher beat the victim, by using a stick. In the decision in **Sindhu's** case (supra), in paragraph No.7, it was held as under:

7. *On scanning the above penal provision, unnecessary mental or physical suffering to a child, on account of assault, abandonment, abuse, exposure or wilful neglect of the child or causing or procuring the child to be assaulted, abandoned, abused, exposed or neglected, are the essentials to constitute the said offence. When a teacher insists for wearing uniform, on seeing a student, who reached the school in colour dress, the same is intended for the purpose of maintaining the discipline of the school in the matter of uniform dress code, and the same, in no way, could be held as an act, which would cause unnecessary mental or physical suffering to the child, so as to attract the offence under Section 75 of the JJ Act. If, as part of maintenance of the discipline of the school when wearing of uniform dress is made mandatory, it is the duty of the students to obey the same, so as to keep the dignity and discipline of the school to impart education effectively. If such acts are given the colour of an offence under Section 75 of the JJ Act, the discipline of the school would become topsyturvy and the same would disdainfully affect the*



discipline and the regiment of the school. Therefore, such disciplinary measures cannot be ushered into the purview of Section 75 of the JJ Act. In such view of the matter, the case at hand would require quashment, as offence under Section 75 of the JJ Act, is not made out, prima facie.

6. The learned Public Prosecutor also though opposed quashment of the proceedings, he also conceded the fact that, in the statement of the victim, he used an abusive word against the teacher and thereafter, the teacher beat the victim.

7. Going by the facts of the case, it is emphatically clear that a duty-bound teacher attempted to maintain the discipline of the school, when the student was found sitting in an indecent manner at the class. But, the response of the student was by calling the teacher an abusive word and in turn, the teacher simply beat the student and sent him out.

8. Adverting to the facts of this case, it is relevant to refer the pedagogy in cultural concept of Guru-Shishya (teacher-student relationship) from the story of Ekalavya, told in the India's great epics 'Mahabharata'. The story of Ekalavya is about a young prince from a forest tribe, who becomes a skilled archer, despite being rejected by a renowned warrior and archery teacher.



Ekalavya witnessed Drona teaching archery to the Kuru princes and wanted to learn himself. However, Drona refused to teach Ekalavya because he was not a prince. Ekalavya created a clay statue of Drona and practiced archery with it, mimicking Drona's every move. Ekalavya became as skilled as Arjuna, Drona's most talented student. When Drona encountered Ekalavya in the forest, he was astonished by Ekalavya's talent. Drona demanded Ekalavya's right thumb, as a token of respect for his teacher. Ekalavya cut off his thumb and gave it to Drona. Thus, when Ekalavya was instructed to offer his right thumb, which is the pivotal organ made him the best in archery, as a token of respect for his teacher (gurudakshina), it was given without any hesitation.

9. As the world developed and technologies have been highly advanced, the teacher-student relationship became upside down. Now, as I could notice, teachers are in a world of fear, to deal with the students, apprehending registration of criminal case and detention of them behind bars. Thus, teachers are imparting education bearing fear in mind that what to do and what not to do. Some of the students are in the habit of not respecting the teachers and every therapeutic restorative



instruction given by the teachers and punitive steps taken by the teachers with *bona fide* intention, as part of their duty, are given the colour of serious non-bailable offences with a view to detain them in custody. This is a threat to the smooth functioning of the education institutions and this situation may lead to dangerous consequences. If the present scenario continues, how a disciplined young generation to be nourished, is a shocking factor.

10. This is a typical case where the student called an abusive word against the teacher, when she simply instructed the student to sit properly at the class. The immediate response of the student was by calling the teacher an abusive word, as extracted hereinabove. Only when the student used abusive word against the teacher, the teacher beat the student and the same did not cause any injuries or sufferings. But police registered crime alleging offence punishable under Section 75 of the JJ Act.

11. In this case, it is not fair to hold that the teacher done anything with intention to cause unnecessary mental or physical suffering to the student. Even she simply beat the student only when she was abused by the student. Thus, the factual matrix of this case makes no offence under Section 75 of the JJ Act. Therefore, quashment prayer is liable to succeed.



In the result, this Criminal Miscellaneous Case stands allowed. All further proceedings in S.C.No.154/2024 on the files of the Additional Sessions Court-1, Thrissur, arose out of C.P.No.76/2023 on the files of the Judicial First Class Magistrate Court, Chavakkad in Crime No.29/2023 of Vadanapally police station, Thrissur, against the petitioner herein, stand quashed.

Sd/-
A. BADHARUDEEN
JUDGE

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APPENDIX OF CRL.MC NO. 6527 OF 2024

PETITIONER'S ANNEXURES

- ANNEXURE 1 A TRUE COPY OF THE FIR IN CRIME
 NO.29/2023 DATED 06.01.2023 OF
 VADANAPALLY POLICE STATION ALONG
 WITH THE FI STATEMENT
- ANNEXURE 2 A TRUE COPY OF THE STATEMENT DATED
 09.01.2023 GIVEN BY THE SON OF THE
 2ND RESPONDENT TO THE INVESTIGATING
 OFFICER
- ANNEXURE 3 A TRUE COPY OF THE FINAL REPORT
 FILED BY THE VADANAPALLY POLICE
 BEFORE THE LEARNED JFCM CHAVAKKAD
 DATED 25.03.2023
- ANNEXURE 4 A TRUE COPY OF THE SUMMONS ISSUED
 IN S.C.154/2024 DATED 28.02.2024 OF
 THE 1ST ADDITIONAL DISTRICT &
 SESSIONS JUDGE, THRISSUR

RESPONDENTS' ANNEXURES : NIL