

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

TUESDAY, THE 27TH DAY OF SEPTEMBER 2022/5TH ASWINA, 1944

CRL.MC NO. 2217 OF 2022

CRIME NO.424/2021 OF Manjeri Police Station,

Malappuram

CC 829/2021 OF JUDICIAL MAGISTRATE OF FIRST CLASS-I,

MANJERI

PETITIONER/ACCUSED:

SANJAY.K.R.,
AGED 26 YEARS
S/O.RAJU
KARIPPAYIL HOUSE,
MANALLOOR DESOM, MANALUR VILLAGE,
KANJANY.P.O., THRISSUR - 680 612
REPRESENTED BY :
FATHER AND NEXT FRIEND RAJU,
RESIDING AT KARIPPAYIL HOUSE,
MANALLOOR DESOM, MANALUR VILLAGE,
KANJANY.P.O., THRISSUR - 680 612.

BY ADVS.
S.GOPAKUMAR
T.M.BINITHA

RESPONDENTS/COMPLAINANT:

1 STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM - 682 011.

Crl.M.C.Nos.2217/2022, 2893/2022 & 5362/2022

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2 STATION HOUSE OFFICER
 MANJERI POLICE STATION.
 MALAPPURAM, PIN - 676 121.

SMT.T.V.NEEMA SR. Public Prosecutor

THIS CRIMINAL MISC. CASE HAVING COME UP FOR
ADMISSION ON 27.09.2022, ALONG WITH
Crl.MC.Nos.2893/2022 & 5362/2022, THE COURT ON THE
SAME DAY PASSED THE FOLLOWING:

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

TUESDAY, THE 27TH DAY OF SEPTEMBER 2022 / 5TH ASWINA, 1944

CRL.MC NO. 2893 OF 2022

**CRIME NO.5/2021 OF CYBER CRIME POLICE STATION,
ALAPPUZHA**

**CC 43/2022 ON THE FILE OF THE CHIEF JUDICIAL
MAGISTRATE COURT, ALAPPUZHA**

PETITIONER/ACCUSED:

SANJAY K.R.,
AGED 26 YEARS,
S/O. RAJU,
KARIPPAYIL HOUSE,
MANALOORDESOM,
MANALUR VILLAGE,
KANJANY.P.O., THRISSUR - 680 612,
REPRESENTED BY
FATHER AND NEXT FRIEND RAJU,
RESIDING AT KARIPPAYIL HOUSE,
MANALOOR DESOM, MANALUR VILLAGE,
KANJANY.P.O., THRISSUR - 680 612.

BY ADVS.
S.GOPAKUMAR
T.M.BINITHA

RESPONDENTS/COMPLAINANT:

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

Crl.M.C.Nos.2217/2022, 2893/2022 & 5362/2022

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2 STATION HOUSE OFFICER
CYBER CRIME POLICE STATION,
ALAPPUZHA, PIN - 688 012.

SMT.T.V.NEEMA SR. Public Prosecutor

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR
ADMISSION ON 27.09.2022, ALONG WITH
Crl.MC.Nos.2217/2022 & 5362/2022, THE COURT ON THE
SAME DAY PASSED THE FOLLOWING:**

Crl.M.C.Nos.2217/2022, 2893/2022 & 5362/2022

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

TUESDAY, THE 27TH DAY OF SEPTEMBER 2022/ 5TH ASWINA, 1944

CRL.MC NO. 5362 OF 2022

Crime No.11/2021 of Cyber Crime Police Station, Kannur

PETITIONER/ACCUSED:

SANJAY K.R.
AGED 26 YEARS
S/O. RAJU, KARIPPAYIL HOUSE,
MANALLOOR DESOM, MANALUR VILLAGE,
KANJANY.P.O., THRISSUR - 680 612
REPRESENTED BY
FATHER AND NEXT FRIEND RAJU,
RESIDING AT KARIPPAYIL HOUSE,
MANALLOOR DESOM, MANALUR VILLAGE,
KANJANY.P.O., THRISSUR - 680 612.

BY ADVS.S.GOPAKUMAR
T.M.BINITHA
SANTOSH DANIEL S

RESPONDENTS:STATE, COMPLAINANT & DE FACTO COMPLAINANT

- 1 STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031
- 2 STATE OF KERALA
CYBER CRIME POLICE STATION,
KANNUR CITY, PIN - 670 003.
- 3 DR.LULU SALWA. N
W/O.MUHAMMED AJIAS
SANA, PODUVACHERY,
NAYARMUKKU, KANNUR,
KERALA - 670 621.

SMT.T.V.NEEMA SR. Public Prosecutor

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
27.09.2022, ALONG WITH Crl.MC.Nos.2217/2022 & 2893/2022,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

ORDER

The petitioner in all the above three Crl.M.Cs. is one and the same. The de facto complainants in all the three cases are Doctors.

2. Three different crimes (Crime No.424/2021 of Manjeri Police Station, Crime No.5/2021 of Cyber Crime Police Station, Alappuzha and Crime No.11/2021 of Cyber Crime Police Station, Kannur) were registered against the petitioner alleging offences punishable under Sections 354A & 509 of the IPC (Crime No.424/2021 of Manjeri Police Station), Sections 354A, 354D(1)(ii) & 509 of the IPC, Section 4 r/w 3 Kerala Healthcare Service Persons and Healthcare Service Institutions (Prevention of Violence and Damage to Property) Act, 2012 & Section 67(iii) of the Information Technology Act, 2000 (Crime No.5/2021 of Cyber Crime Police Station, Alappuzha) and Sections 354A(1)(iii), 354D(1)(ii) and 509 of the IPC, Section 4 r/w 3 Kerala Healthcare Service Persons and Healthcare Service Institutions (Prevention of Violence and Damage to Property) Act, 2012 & Section 67A of the Information Technology Act, 2000 (Crime No.11/2021 of Cyber Crime Police Station, Kannur).

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3. The allegation in all the three cases is that, on 28.8.2021, while the de facto complainants in all the three crimes were consulting with the patients through on-line as part of Govt. programme (e-sanjivani), the petitioner followed the de facto complainants through the above consultation programme with sexual intent and showed the scene of masturbation and thereby committed sexual harassment against the women healthcare service personnel.

4. The definite case of the petitioner is that he is a mentally ill person. It is specifically stated that he happened to be involved in drugs racket and became an addict for drugs and alcohol while he was studying for B.Sc.-MIT at A.J. Institute of Medical Science and Research Centre, Mangalore in 2012-'13 batch. It is further stated that the addiction to drugs and alcohol developed anti-social personality disorder in him and he became exhibitionistic and was undergoing treatment in various hospitals. It is submitted that the alleged offences were committed not intentionally but consequent to his disease mentioned above. The petitioner has produced

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documentary evidence to show that he is suffering from such disease. It is in these circumstances, all these Crl.M.Cs. have been filed to quash the proceedings.

5. Since this Court was prima facie satisfied that the petitioner was suffering from the disease mentioned above, a direction was given to the learned Senior Public Prosecutor, Smt.T.V.Neema to ascertain from the concerned de facto complainants/Doctors whether they are willing to condone the acts of the petitioner taking into account the mental condition of the petitioner. Accordingly, Smt.T.V.Neema, the learned Senior Public Prosecutor took pain to contact all the de facto complainants and interact with them. They have fairly submitted that they are prepared to condone the alleged act of the petitioner and they do not want to proceed with the cases further against the petitioner. Written sworn statements from all the three de facto complainants have also been received and produced before this Court.

6. For the reasons stated above, all further proceedings against the petitioner in Crime No.424/2021 of

Crl.M.C.Nos.2217/2022, 2893/2022 & 5362/2022

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Manjeri Police Station, Crime No.5/2021 of Cyber Crime Police Station, Alappuzha and Crime No.11/2021 of Cyber Crime Police Station, Kannur are hereby quashed.

7. The petitioner's father, through whom these Crl.M.Cs. have been filed, shall ensure that the petitioner does not repeat the act.

Crl.M.Cs. are allowed as above.

Sd/-

**DR.KAUSER EDAPPAGATH,
JUDGE**

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APPENDIX OF CRL.MC 2217/2022

PETITIONER'S ANNEXURES

- Annexure1 TRUE COPY OF THE IDENTITY CARD ISSUED TO PETITIONER BY A.J.INSTITUTE OF MEDICAL SCIENCE AND RESEARCH CENTRE, MANGALORE FOR B.SC. - MIT (MEDICAL IMAGING TECHNOLOGY) BATCH 2012 - 2013.
- Annexure2 CERTIFIED COPY OF FIR WITH FIS DT. 01/09/21 IN CRIME NO.424/2021 OF MANJERI POLICE STATION FOR THE OFFENCES UNDER SECTIONS 509 AND 354A OF THE IPC.
- Annexure3 TRUE COPY OF MEDICAL RECORDS FROM ANSAR HOSPITAL, PERUMPILAVU.
- Annexure4 TRUE COPY OF MEDICAL RECORDS FROM AMRITHA HOSPITAL, ERNAKULAM.
- Annexure5 TRUE COPY OF THE ORDER IN BAIL.APPL.NO. 7576/2021 DT. 01/10/2021
- Annexure6 TRUE COPY OF MEDICAL CERTIFICATE ISSUED BY SREE NARAYANA INSTITUTE OF MEDICAL SCIENCE DT. 03/09/2021
- Annexure7 TRUE COPY OF ORDER OF THE SESSIONS COURT, ALAPPUZHA IN CRL.M.P.NO. 1799/2021 DT. 17/09/2021 DECLINING BAIL TO THE PETITIONER.
- Annexure8 TRUE COPY OF THE DISCHARGE SUMMARY OF THE PETITIONER ISSUED BY THE SREE NARAYANA INSTITUTE OF MEDICAL SCIENCE, CHALAKKA, ERNAKULAM DT.05/11/2021
- Annexure9 CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO. 424/2021 OF MANJERI POLICE STATION TAKEN AS C.C.NO. 829/2021 BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT - I, MANJERI.
- Annexure10 CERTIFIED COPY OF MEMORANDUM OF EVIDENCE IN C.C.NO. 829/2021 BEFORE JUDICIAL FIRST CLASS MAGISTRATE COURT - I, MANJERI.

Crl.M.C.Nos.2217/2022, 2893/2022 & 5362/2022

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Annexure11	CERTIFIED COPY OF THE WITNESS STATEMENT IN C.C.NO. 829/2021 BEFORE JUDICIAL FIRST CLASS MAGISTRATE COURT - I, MANJERI.
Annexure12	TRUE COPY OF THE CERTIFICATE ISSUED BY DR. ANOOP VINCENT OF SREE NARAYANA INSTITUTE OF MEDICAL SCIENCE, CHALAKKA, ERNAKULAM DT. 11/03/2022.

APPENDIX OF CRL.MC 2893/2022

PETITIONER'S ANNEXURES

- Annexure A1 TRUE COPY OF THE IDENTITY CARD ISSUED TO PETITIONER BY A.J.INSTITUTE OF MEDICAL SCIENCE AND RESEARCH CENTRE, MANGALORE FOR B.SC. - MIT (MEDICAL IMAGING TECHNOLOGY) BATCH 2012 - 2013.
- Annexure A2 CERTIFIED COPY OF FIR WITH FIS DT. 29/08/2021 IN CRIME NO. 5/2021 OF CYBER CRIME POLICE STATION, ALAPPUZHA FOR THE OFFENCES UNDER SECTIONS 509 AND 354A OF THE IPC.
- Annexure A3 TRUE COPY OF MEDICAL RECORDS FROM ANSAR HOSPITAL, PERUMPILAVU.
- Annexure A4 TRUE COPY OF MEDICAL RECORDS FROM AMRITHA HOSPITAL, ERNAKULAM.
- Annexure A5 TRUE COPY OF THE ORDER IN BAIL.APPL.NO.7576/2021 DT. 01/10/2021.
- Annexure A6 TRUE COPY OF MEDICAL CERTIFICATE ISSUED BY SREENARAYANA INSTITUTE OF MEDICAL SCIENCE DT. 03/09/2021
- Annexure A7 TRUE COPY OF ORDER OF THE SESSIONS COURT, ALAPPUZHA IN CRL.M.P.NO. 1799/2021 DT. 17/09/2021 DECLINING BAIL TO THE PETITIONER.
- Annexure A8 TRUE COPY OF THE DISCHARGE SUMMARY OF THE PETITIONER ISSUED BY THE SREENARAYANA INSTITUTE OF MEDICAL SCIENCE, CHALAKKA, ERNAKULAM DT.05/11/2021
- Annexure A9 CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO.5/2021 OF CYBER CRIME POLICE STATION, ALAPPUZHA TAKEN AS C.C.NO. 43/2022 BEFORE THE CHIEF JUDICIAL MAGISTRATE COURT, ALAPPUZHA
- Annexure A10 CERTIFIED COPY OF THE WITNESS STATEMENT IN C.C.NO.43/2022 BEFORE CHIEF JUDICIAL MAGISTRATE COURT ALAPPUZHA

Crl.M.C.Nos.2217/2022, 2893/2022 & 5362/2022

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Annexure A11	TRUE COPY OF THE CERTIFICATE ISSUED BY DR. ANOOP VINCENT OF SREE NARAYANA INSTITUTE OF MEDICAL SCIENCE, CHALAKKA, ERNAKULAM DT. 11/03/2022.
Annexure A12	TRUE COPY OF THE ORDER IN CRL.M.A.NO. 1/2022 IN CRL.M.C. NO.2217/2022 DATED 04/04/2022

APPENDIX OF CRL.MC 5362/2022

PETITIONER'S ANNEXURES

Annexure A1	TRUE COPY OF THE IDENTITY CARD ISSUED TO PETITIONER BY A.J.INSTITUTE OF MEDICAL SCIENCE AND RESEARCH CENTRE, MANGALORE FOR B.SC. - MIT (MEDICAL IMAGING TECHNOLOGY) BATCH 2012 - 2013.
Annexure A2	COPY OF FIR WITH FIS DT. 29/08/2021 IN CRIME NO. 5/2021 OF CYBER CRIME POLICE STATION, ALAPPUZHA FOR THE OFFENCES UNDER SECTIONS 509 AND 354A OF THE IPC.
Annexure A3	TRUE COPY OF MEDICAL RECORDS FROM ANSAR HOSPITAL, PERUMPILAVU.
Annexure A4	TRUE COPY OF MEDICAL RECORDS FROM AMRITHA HOSPITAL, ERNAKULAM.
Annexure A5	TRUE COPY OF THE ORDER IN BAIL APPL.NO. 7576/2021 DT. 01/10/2021.
Annexure 6	TRUE COPY OF ORDER OF THE SESSIONS COURT, ALAPPUZHA IN CRL.M.P.NO. 1799/2021 DT. 17/09/2021 DECLINING BAIL TO THE PETITIONER.
Annexure A7	CERTIFIED COPY OF FIR WITH FIS DT. 08/09/2021 IN CRIME NO. 11/2021 OF CYBER CRIME POLICE STATION, KANNUR CITY
Annexure A8	TRUE COPY OF THE DISCHARGE SUMMARY OF THE PETITIONER ISSUED BY THE SREE NARAYANA INSTITUTE OF MEDICAL SCIENCE, CHALAKKA, ERNAKULAM DT.05/11/2021
Annexure A9	CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO. 11/2021 OF CYBER CRIME POLICE STATION, KANNUR TAKEN AS C.C.NO. 287/ 2022 BEFORE THE CHIEF JUDICIAL MAGISTRATE COURT THALASSERY
Annexure 10	TRUE COPY OF THE CERTIFICATE ISSUED BY DR. ANOOP VINCENT OF SREE NARAYANA INSTITUTE OF MEDICAL SCIENCE, CHALAKKA, ERNAKULAM DT. 11/03/2022.