

(2021) 04 KL CK 0087

In the High Court Of Kerala

Case No : Criminal Miscellaneous Case No. 893 Of 2021

Antony Kuryan @Sibi Kuryan

APPELLANT

Vs

State Of Kerala And Ors

RESPONDENT

Date of Decision : 09-04-2021

Acts Referred:

Indian Penal Code, 1860 — Section 143, 147, 149, 394, 392(1), 294(b), 353

Citation : (2021) 04 KL CK 0087

Hon'ble Judges : P. Somarajan, J

Bench : Single Bench

Advocate : B.G. Harindranath, Santhosh Mathew, M.N. Maya

Final Decision : Allowed

Judgement

1. The accused No.1 came up to quash the final report alleging offence under Sections 143, 147, 294(b), 353 r/w Section 149 IPC. The main offences alleged are under Sections 294(b) and 353 IPC. By relying on the decision rendered by this Court in P.T.Chacko v. Nainan Chacko (1967 KLT 799), it was submitted that the words used even if it is admitted would not constitute obscenity as incorporated under Section 294(b) IPC. The decision of the Apex Court in Ranjit D. Udeshi v. The State of Maharashtra (AIR 1965 SC 881) was also relied on in support of the argument. In order to make out a case of obscenity as incorporated under Section 294(b) IPC, it must be have a tendency of exciting lustful thoughts and it has to be appreciated on the foundation of modern perception. Section 294 IPC does not define obscenity. Hence, the definition of obscenity under Section 292(1) IPC can be applied. This Court in P.T.Chacko's case (supra) considered a similar situation. As such, the offence under Section 294(b) IPC will not stand attracted.

2. In order to attract Section 353 IPC, nothing was brought to the notice of this Court that they were on official duty at the alleged time of incident. As such, if it is proceeded further, it will not serve any purpose. Hence, the final report as against the petitioner/accused No.1 is hereby quashed.

Crl.M.C. is allowed accordingly.