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'CR'

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

MONDAY, THE 10TH DAY OF MARCH 2025 / 19TH PHALGUNA, 1946

BAIL APPL. NO. 2937 OF 2025

CRIME NO.293/2025 OF Vizhinjam Police Station,

Thiruvananthapuram

PETITIONER/S:

SIBIN S.V
AGED 36 YEARS
S/O SEKHARAN.K, SAJU NIVAS, NETTATHANNI,
MULLOOR.P. O, NEYYATTINKARA, THIRUVANANTHAPURAM,
PIN - 695521

BY ADVS.
M.R.SARIN
PARVATHI KRISHNA
SWETHA DAS
AHSANA E.
AISWARYA MENON

RESPONDENT/S:

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

OTHER PRESENT:

SR PP-NOUSHAD K A

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON
10.03.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



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P.V.KUNHIKRISHNAN, J**B.A. No. 2937 of 2025****Dated this the 10th day of March, 2025****O R D E R**

Teachers are the unsung heroes of our society. They shape the minds, hearts and souls of our future generation. No steps should be taken to diminish the morale of the teachers' community because they are the backbone of our future generation. Nowadays, criminal cases are registered against the teachers based on the complaints of their students or the parents of their students alleging misbehavior, assault, etc. There may be rare cases in which some teachers might have committed some offences. But, for that reason, the entire teaching community cannot be



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blamed. They cannot teach their students under the threat of registration of criminal cases. A preliminary enquiry is necessary before registering any criminal case against a teacher in connection with his/her actions in the school, colleges, etc, to maintain the discipline, good behaviour, etc, of their students in academic institutions.

2. The petitioner is a teacher and he is now facing criminal prosecution alleging offences punishable under Section 118(1) of Bharatiya Nyaya Sanhitha, 2023 (for short 'BNS') and Section 75 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short 'JJ Act').

3. Prosecution case is that on 10.02.2025 at about 12:30 p.m., the son of the defacto complainant was summoned by the petitioner. The son of the defacto complainant was studying in 6th standard. It is alleged that the petitioner assaulted the de facto complainant's son with a cane due to the enmity towards the de facto complainant's



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son that he spread the news to the other students about the death of his son in an accident, when the petitioner was driving the vehicle. Hence, it is alleged that the accused committed the offence.

4. Heard the counsel appearing for the petitioner and the Public Prosecutor.

5. Counsel appearing for the petitioner submitted that the allegation against the petitioner is not correct and no such incident has happened as alleged by the prosecution. It is also submitted that it is a false case foisted against the petitioner. It is the case of the petitioner that, he always advised the victim student to study well, but the victim was lazy in academic studies. Because of the continuous advice, which he did not like, the victim spread the news to the other students that the petitioner was responsible for the death of the petitioner's son. The petitioner, as a teacher, only tried to correct him, and



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hence, there was no intentional act from the side of the petitioner is the submission. The Public Prosecutor opposed the bail application. The Public Prosecutor submitted that the allegation against the petitioner is serious.

6. As I mentioned earlier, nowadays, the teachers in the schools are reluctant to take any risk as far as their students' behaviour, discipline etc are concerned. They believe that, even if they act bonafide, there is a threat of registration of criminal case against them. In the olden days, the strict discipline of teachers benefited the student community in shaping their lives. Therefore, the role of a teacher is important in the mental, physical and educational development of a student. Once students are entrusted or admitted in a school, the parents are giving a free hand to the teachers to do the needful for better development of the mental health, physical health, discipline and of course educational need. When the teachers are doing their duties



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in schools and colleges, there ought not to be any threat of registration of criminal case like a Damocles sword. I am not saying that all teachers are saints. In all walks of life, there are people with some bad behaviour. For that reason alone, the teacher community should not be in a threat of registration of criminal cases when the child is advised or given small punishments for their better future.

7. The behaviour of the young generation in our state is alarming. They are involved in serious criminal cases, and some of them are even addicts of drugs and alcohol. This was not the situation in olden days. On those days, the mere sound, shade or the face of a teacher is enough to ensure that there is discipline in the class rooms. Nowadays, news reports are coming in which the students are threatening the teachers and they are physically attacking or even gheraoing the teachers. This tendency is to be discouraged. There is a vital role for the teachers'



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community in developing our future generation. A teacher's role is not only to teach but also to inspire, motivate and empower the students. The teachers are not just educators, they are mentors, role models and guardians of our future. A teacher's influence extends far beyond the classroom. It shapes the minds, hearts and souls of our future generation. In other words, teachers are the architects of our future generation. They build the foundation, design the framework and inspire the dreams that shape our world. As I said earlier, teaching is not just about imparting knowledge to the students, but it is about inspiring, motivating and empowering the students to become the best version of themselves. In order to do the duties of the teachers, the society should give some freedom to the teachers and such an atmosphere should be created in the schools.

8. This Court in **Rajan @ Raju v. Sub Inspector of Police, Feroke Police Station and Others** [2018 (5)



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KHC 967] observed that when a student is sent by his parent or guardian to a school, parent or guardian must be deemed to have given an implied consent to the child being under the discipline and control of the School authorities and for the infliction of such reasonable punishment as may be necessary for the purposes of School discipline or for correcting him. But, this Court clarified that if there is unreasonable physical suffering or harm to the child, the same cannot be condoned. This Court also observed that the parents, teachers and other persons in 'loco parentis' can take disciplinary measures to apply a reasonable degree of force to their children or pupils to understand the purpose to which the act was done.

9. Similarly, in ***Geetha Manoharan Vs. State of Kerala and others*** [2020 (4) KHC 352], this Court observed that a teacher who in the course of imparting education beats a student bona fide to maintain discipline,



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then such a teacher is given an implied consent by the parent to discipline the pupil for the welfare of the pupil and it flows from the well known common law principle of 'Loco parentis' and in such a case it cannot be said that the teacher has committed an offence. Similarly in **XXX v. State of Kerala** [2024 KHC 7083], this Court observed that teachers are imparting education bearing fear in mind what to do and what not to do. This is a threat to the smooth functioning of educational institutions, and this situation may lead to dangerous consequences.

10. Even though this Court in the above decisions held that the teachers have control over the students while imparting education, ensuring discipline and developing the behaviour of students, even then, cases are registered against the teachers alleging serious offences for silly matters. Even when a student is pinched or pushed or poked without any malice, criminal cases are registered against the



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teachers, based on the complaint of the parents/students. This should be stopped. Otherwise, the teachers cannot do their duties. Therefore, I am of the considered opinion that if a parent or student files any complaint against a teacher alleging any criminal offence committed inside an educational institution, a preliminary enquiry should be conducted to ascertain whether there exists a prima facie case for proceeding with the matter. Sec.173(3) of BNSS is relevant here. The same is extracted hereunder :

173. Information in cognizable cases.

(1) xxx xxxx

(2) xxx xxxx

(3) *"Without prejudice to the provisions contained in section 175, on receipt of information relating to the commission of any cognizable offence, which is made punishable for three years or more but less than seven years, the officer in charge of the police station may with the prior permission from an officer not below the rank of Deputy Superintendent of Police, considering the nature and gravity of the offence,-*



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(i) proceed to conduct preliminary enquiry to ascertain whether there exists a prima facie case for proceeding in the matter within a period of fourteen days; or

(ii) proceed with investigation when there exists a prima facie case.

(4) xxx xxxx"

11. A perusal of the same would show that on receipt of the information relating to the commission of any cognizable offence, which is made punishable for three years or more but less than 7 years, the officer in charge of the police station may with prior permission from an officer not below the rank of Deputy Superintendent of Police considering the nature and gravity of the offence, proceed to conduct a preliminary enquiry to ascertain whether there exists a prima facie case for proceeding in the matter within a period of fourteen days. If a prima facie case is there, the investigation can proceed.

12. Taking the principle in sec. 173(3) of the BNSS, it



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is declared that, if any complaint is received against a teacher in connection with his activities inside an educational institution, a mandatory preliminary enquiry in accordance with Sec. 173 (3)(i) is to be conducted before registering the case. A notice also can be given to the teacher, if necessary, for conducting the preliminary enquiry, but he shall not be arrested during the period of preliminary enquiry. This court is issuing this order invoking the inherent jurisdiction under Article 226 of the Constitution of India. Therefore, if any further clarification is necessary, the state or the police authorities can approach this court with the appropriate petition in accordance with the law. The State Police Chief will issue the necessary circular/order in this regard forthwith at any rate within 1 month from the date of receipt of this order.

13. Such a direction is necessary in the present-day scenario, where we are hearing news about students using



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weapons inside educational institutions and also using alcohol, drugs, etc by the students. Let the teachers carry a cane in their hand while they are in educational institutions, if they intend to do so. It need not be used always, but the mere presence of a cane with teachers will create a psychological effect in the student community by discouraging them from doing any social evils. For minor punishments of teachers in schools, without any malice, while imparting education or in connection with the discipline and behaviour of a student, the teachers should be protected from criminal prosecution. This is only to strengthen our education system and also to protect the interests of the student community, who are the future of our nation. No teacher should suffer because he advised a student or gave minor punishments for his indiscipline and behaviour. Of course, a section of parents and students will come with complaints again. As I mentioned earlier, they



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will come with a police complaint saying that the teachers pinched, stared, beat, poked, etc. If such complaints are received, police authorities should conduct a preliminary enquiry with notice to the teacher concerned and the aggrieved party if necessary. In such stage, no teacher should be arrested. It is the duty of the police authorities to find out the grain from the chaff during the preliminary enquiry. There are people in our society who are interested only in initiating litigation for minor acts, which is to be neglected. The following short poem of Sri Rafeeq Ahammed, a Malayalam poet, which was published in Mathurubhumi newspaper dated 03.06.2024 in connection with the 'School Praveshanolsavam'(School admission day) for the academic year 2024-25, is interesting to read not only to students but to every citizen of this country.

“കോഴിക്കാലൻ കോമൻ ചേട്ടൻ

കോടതിയെന്നും കേറിയിറങ്ങും



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ഓലയൊടിഞ്ഞാൽ വേലിപൊളിഞ്ഞാൽ

പോലീസ് സ്റ്റേഷനിലോടിച്ചെല്ലും.

കാളന്നിത്തിരിയുപുകുറഞ്ഞാൽ

കോവയ്ക്കക്കൊരു മൃഗം കുറഞ്ഞാൽ

ഭാര്യയ്ക്കിട്ടും കേസുകൊടുക്കും

അയലത്തുള്ളൊരു നായകുറച്ചാൽ

വയലിൽ നട്ടുവാടിക്കണ്ടാൽ

മതിലിന്മേലൊരു ചെറുവരവീണാൽ

അതിയാൻ കോടതിവാതിലിലെത്തും

താക്കളിക്കുപഴുപ്പുകുറഞ്ഞാൽ

ചെക്കൻമാവിനെറിഞ്ഞുകുളിച്ചാൽ

വക്കീൽമാർക്കു കശാലായ് പിന്നെ.

കോടതികേറിയിറങ്ങിനടന്നൊരു

കോമൻചേട്ടൻ ചാവറായി.

കാലനറിഞ്ഞു, പോത്തിൽക്കേറി

കാലത്തെത്തീ വീട്ടുപടിക്കൽ

കോമച്ചാരുടെ വാഴത്തെയ്യിൽ



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കാലൻതന്നുടെ പോത്തുകടിച്ചു

കോമച്ചാരതുകണ്ടുവിറച്ചു

കാലനെതട്ടിമറിച്ചു കുതിച്ചു

കോടതിയെത്തുമുന്നേ കാലൻ

കോമൻചേട്ടനെ കെട്ടിയെടുത്തു.”

“Koman Chettan” is a symbolic character of the poet. The sum and substance of the poem is about filing unnecessary complaints by the character for minor things. I do not want to translate the same to English because it can be enjoyed only in the Malayalam language. If characters like “Koman Chettan” are not in our society, a major chunk of the litigations pending in courts of law would not have been there. It is not a joke but a reality. Therefore, if a complaint is received against a teacher, the police should see that the complainant has no behaviour like the imaginary character of Rafeek Ahamad’s “Koman Chettan”.



14. Coming back to the facts of this case, the petitioner is arraigned as an accused in Crime No. 293/2025 of Vizhinjam Police Station. The offences alleged are under Sec.118(1) of BNS and also under Sec.75 of the JJ Act. I do not want to go to the merits of the present case because that will affect the investigation of the case. But the maximum punishment that can be imposed for the offences under Sec.118 (1) BNS is only three years, and Sec. 75 of JJ Act is five years. Therefore, I am of the considered opinion that the petitioner can be released on bail, after imposing stringent conditions.

1. The petitioner shall appear before the Investigating Officer within two weeks from today and shall undergo interrogation.

2. After interrogation, if the Investigating Officer propose to arrest the petitioner, he



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shall be released on bail on executing a bond for a sum of Rs.50,000/-(Rupees Fifty Thousand only) with two solvent sureties each for the like sum to the satisfaction of the arresting officer concerned.

3. The petitioner shall appear before the Investigating Officer for interrogation as and when required. The petitioner shall co-operate with the investigation and shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer.

Registry will forward a copy of this order to the State



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Police Chief forthwith to pass appropriate order as directed
by this court in paragraph 12 of this order.

Sd/-
P.V.KUNHIKRISHNAN
JUDGE

AMR/SKS