

Crl.M.C.No. 3547 of 2015



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2025:KER:50771

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

THURSDAY, THE 10TH DAY OF JULY 2025 / 19TH ASHADHA, 1947

CRL.MC NO. 3547 OF 2015

AGAINST CC NO.712 OF 2011 OF JUDICIAL MAGISTRATE OF FIRST
CLASS -III, THIRUVANANTHAPURAM WHICH AROSE FROM CRIME
NO.97/2004 OF THAMPANOR POLICE STATION, THIRUVANANTHAPURAM

PETITIONER/ACCUSED NO.2:

APPACHAN
AGED 61 YEARS, S/O. DEVESSIA,
SHASTHA BUILDING,
JAIL ROAD, KOZHIKODE.

BY ADV SHRI.P.V.ANOOP

RESPONDENTS/COMPLAINANT & STATE:

- 1 S.I. OF POLICE,
THAMBANOOR POLICE STATION
THIRUVANANTHAPURAM - 695 001.
- 2 STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM, KOCHI - 682 031.

BY SRI.SANGEETHA RAJ N.R. - PP

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
10.07.2025, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:



"C.R."

ORDER

The petitioner is the 2nd accused in C.C.No.712 of 2011 on the files of the Judicial First-Class Magistrate Court-III, Thiruvananthapuram (for short, 'the trial court'). The offence alleged is punishable under Section 7(1)(b) of the Cinematograph Act, 1952 (for short, 'the Act').

2. The prosecution case in short is that a Malayalam feature film, namely "Vellinakshathram" produced by the 1st accused and distributed by the 2nd accused, was exhibited at Kairali Sree Theatre at Aristo Junction, Thambanoor Ward, Thycaud Village, inserting a scene, where the prime actor, Sri.Siddique was seen strangulating a small kid to death. It is alleged that the said scene, which has caused panic and distress to the viewers, was added after the film had been certified by the Censor Board. The 3rd accused was the manager, and the 4th accused was the film operator of the theatre.



3. The petitioner has approached this Court invoking Section 482 of Cr.P.C. to quash the proceedings against him on the ground that the allegations in the final report, even if they are taken at their face value and accepted in their entirety, do not constitute the offence alleged.

4. I have heard Sri.P.V.Anoop, the learned counsel for the petitioner and Sri. Sangeetha Raj N.R., the learned Public Prosecutor.

5. Section 7(1)(b) of the Act says that if any person without lawful authority alters or tampers with in any way any film after it has been certified, he shall be punishable with imprisonment for a term which may extend to three years. Therefore, to attract the said provision, it must be *prima facie* established that the accused, without authority, altered or tampered with in any way any film after it has been certified. Admittedly, the film has been certified by the Censor Board under Section 5A of the Act. If the film is duly certified, unless it



is established that the accused added any scene to the certified film after the certification, no prosecution under Section 7(1)(b) can be initiated against him. To attract the offence against the accused, there must be material to show that the alleged scene where a small kid was strangled to death was interpolated into the certified film. Thus, the crucial issue is whether the objectionable scene was part of the certified film or an interpolation.

6. Annexure A is the final report. A perusal of the final report would show that there is absolutely no material to show that the objectionable scene was incorporated after the movie had been certified by the authority. The prosecution also has no case which are the portions that are certified by the authorities and which are the portions not certified. Unless it is established by the prosecution about the certified portion of the film, the offence under Section 7(1)(b) of the Act cannot be attracted. Simply because a movie contains a scene creating panic or



distress to its viewers, it will not constitute an offence under Section 7(1)(b) of the Act unless it is established that the said scene was not part of the original film certified by the Censor Board and it was an interpolation.

7. The upshot of the above discussion is that even if all the entire allegations in the final report together with the materials collected during investigation which form part of the final report are believed in its entirety, no offence under Section 7(1)(b) of the Act is made out against the petitioner. In these circumstances, no useful purpose will be served in proceeding further against the petitioner. Hence, all further proceedings against the petitioner/2nd accused in C.C.No. 712 of 2011 on the files of the Judicial First Class Magistrate Court-III, Thiruvananthapuram are hereby quashed.

The Crl.M.C. is allowed as above.

Sd/-
DR. KAUSER EDAPPAGATH,
JUDGE



APPENDIX OF CRL.MC 3547/2015

PETITIONER ANNEXURES

- ANNEXURE A CERTIFIED COPY OF THE FINAL REPORT DATED NIL
IN CRIME NO. 97/2004 OF THAMBANOOR POLICE
WHICH IS NOW PENDING AS C.C.NO.712/2011 ON THE
FILE OF THE JUDICIAL FIRST CLASS MAGISTRATE
COURT-III, THIRUVANANTHAPURAM DATED
31.10.2008.
- ANNEXURE B CERTIFIED COPY OF THE FIR IN CRIME NO. 97/2004
OF THE THAMBANOOR POLICE STATION DATED 8.04.04
- ANNEXURE C CERTIFIED COPY OF THE CERTIFICATE ISSUED BY
CHARGE WITNESS NO.2 DATED 30.08.2008.