

**IN THE COURT OF THE JUDICIAL I CLASS MAGISTRATE,  
KOLENCHERRY:**

**Present : Smt. Sirsha N A,  
Judicial I Class Magistrate.  
Tuesday the 29<sup>th</sup> day of April, 2025**

**CMP No. 139 of 2024**

**In**

**CC No: 14 of 2023**

**Petitioner :** Midhun P K, S/o. Kanakan, age 31/22,  
Kanakasree Veedu, Dharmadam Desham, Swamikunnu Bhagam,  
Dharmadam Village, Kannur District.  
(By Adv. Roopesh N R)

**Respondent :** State represented by the Sub Inspector of Police,  
Kunnathunadu Police Station  
(Crime No. 372/22 of Kunnathunadu P.S.)  
**(By A.P.P. Kolenchery)**

**Order :** CMP is dismissed .

**ORDER**

This petition was filed by the counsel for the sole accused in CC No: 14 of 2023 on the file of this court.

2. The petition averments in brief is that the petitioner is the sole accused in the above case which emanates from the crime Cr.372/2022 registered by the Sub Inspector of Police, Kunnathunadu Police Station. The above crime was charge sheeted against the petitioner alleging commission of offence punishable under section 506, 509 of IPC and Sections 66E and 67 of IT Act. The defacto complainant and the accused were friends. They nurtured their relationship through social media platforms. They used to call through Whatsapp. On 06.05.2022 at about 07:00 p.m., when the husband and the children of the defacto complainant was not in her house, the accused video called her and demanded her nude video, he threatened that unless she adhere his demand he will morph the photos of her and circulate the same. Thereupon the defacto

complainant video called him. The accused recorded the video call and transferred the same to CW2. Thereby the accused committed the above offences. It is submitted that the allegation and the materials produced by the prosecution would not even prima facie attract the offences alleged in the charge sheet. It is submitted that the conduct of the victim exposes the truth and disproves the prosecution case itself. It is submitted that the CW2 and the defacto complainant assert that she had been in a romantic relationship even during her marriage was subsisting. Hence the primary cause for the sharing of videos, even if it is due to the deep love between them, not the intimidation of the accused. Then the same shall not be a criminal offence, it is submitted. The petitioner has been falsely implicated by wrongly applying section 506 of IPC and 509 of IPC as there is no threat, criminal intimidation or the intention on the part of the accused to insult the modesty of the defacto complainant . It is submitted that the charge under section 66E and 67 of IT Act also will not attract in the above case. It is submitted that even the allegations made in the first information report or the final report, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused, there is dearth of materials to prima facie frame a charge or even make a supposition that the accused persons have committed the offence. Hence the petitioner is liable to be discharged.

3. Copy Served.

4. No written objection filed on the side of the prosecution but the learned Assistant Public Prosecutor strongly opposed the application stating that there is materials on record to reveal to make out a prima facie case against the petitioner and he is not entitled for a discharge under section 239 of Cr.P.C.

5. The points that arise for determination is that ‘ is the petitioner entitled for a discharge as sought for ?’

6. **Point No:1** :- Here the petitioner has sought for a discharge under section 239 of Cr.P.C. Mainly on the ground that the ingredients of offences of 509 and 506 IPC under sections 66 E and 67 of the IT Act, is not attracted in the allegation of the prosecution against the accused.

7. Regarding the other contention of the petitioner that there is no materials on record to connect him with the instant case, it can be seen that the 161 statement of CW 1 and CW2 clearly suggests the involvement of the petitioner regarding the obscene video alleged to be involved in the case. . . The other contentions of the petitioner with regard to the ingredients of offences not attracted it can be seen that the prosecution has produced sufficient materials on record so as to frame a charge against the accused under Section 506 and 509 of the IPC and 66 E and 67 of the IT Act and made out a prima facie case against the accused. The petitioner is no way entitled for a premature termination of criminal prosecution against him as there are sufficient materials on record to frame a charge against the petitioner. Hence the petition is liable to be dismissed.

**In the result,**

**Petition is dismissed.**

(Dictated to the Confdl, Asst, transcribed and typed by her, corrected by me and pronounced in open court on this the 29<sup>th</sup> day of April, 2025.)

**Sirsha N A**  
**Judicial I<sup>st</sup> Class Magistrate**  
**Kolencherry**