

**IN THE COURT OF THE JUDICIAL FIRST CLASS MAGISTRATE-1
NEYYATTINKARA**

Present: Smt.Sumitha.M.S

Judicial First Class Magistrate-I, Neyyattinkara

Friday, 17th April, 2026

CMP 4512/2025 in CC 2043/2021

Petitioner / Accused	:	1. Shibu.S., Sub Inspector of Police, Aryancode Police Station, Ottasekharamangalam. 2. Tom Jose, Sub Inspector of Police (Grade), Aryancode Police Station, Ottasekharamangalam.
		(By Adv. Sri. V.Vinod Kumar)
Counter petitioner/Complainant	:	Sathyadas, aged 48 years, S/o.Asari, Sathyavilasam, Pallickal Parambu, Edaval, Ottasekharamangalam P.O., Kattakada. (By Adv.Sri.Chemboor V.S.Shaji)
Order	:	Petition is dismissed.

This CMP was heard today, the court passed the following:-

ORDER

This is a petition filed by the accused Nos. 1 and 2 in CC 2043/2021 u/s.245(1) of the Code of Criminal Procedure.

2. The petition averments in brief is as follows:- According to the petitioners, they are the accused Nos. 1 and 2 in CC 2043/2021 taken on file by this Court u/ss. 167, 294(b), 217, 218, 506(i), 509, 34 of the Indian Penal Code on a private complaint instituted by the respondent. Further, they are innocent and no sanction was obtained by the respondent for prosecuting the petitioners / accused Nos. 1 and 2, police officials, who were discharging their official duty during the time of the alleged incident. The petitioners / accused Nos. 1 and 2 contend that they had not forged any documents as alleged and did not utter any obscene words against the respondent. Also, no alterations were made in the First Information Statement of the respondent as well as his body note and it was on the basis of the First Information Statement of the respondent, Aryancode Police Station Crime No.458/2021 u/ss.341, 294(b), 323, 324, 435, 308 of the Indian Penal Code was registered. No threatening

or indecent acts as alleged by the respondent occurred and, the wife and son of the respondent were not present at the police station during the time. The respondent did not file any complaint to that effect before the higher officials of police and the case is a totally fabricated one. Hence the petition to get the petitioners / accused Nos. 1 and 2 discharged u/s.245(1) of the Code of Criminal Procedure.

3. Copy served to the respondent / complainant in CC 2043/2021. The respondent / complainant in CC 2043/2021 filed objection. In the objection, it was stated by the respondent that as the acts done by the petitioners / accused Nos.1 and 2 are not protected ones within their official capacity, there exists no requirement of getting prosecution sanction u/s.197 of the Code of Criminal Procedure. The case of the respondent / complainant in CC 2043/2021, including personal feelings, was duly presented before this Court during his evidence u/s.244 of the Code of Criminal Procedure and the investigation of the petitioners / accused Nos.1 and 2 in Aryancode Police Station Crime No.458/2021 was not satisfactory and their intention was to protect the accused in the aforementioned crime. Hence, the acts of the petitioners / accused Nos. 1 and 2 is a misuse of their official capacity and hence they are liable u/ss. 167, 294(b), 217, 218, 506(i), 509, 34 of the Indian Penal Code. Thus, the petition is liable to be dismissed.

4. Heard the Learned Counsel for the petitioners / accused Nos. 1 and 2 and the Learned Counsel for the respondent / complainant in CC 2043/2021.

5. On hearing and on going through the relevant records of the case, including evidence u/s.244 of the Code of Criminal Procedure, this Court is satisfied that there exists specific allegation as to non recording of the First Information Statement of the respondent as stated by him, so as to cause injury to him and hence there exists prima facie ingredients to proceed against the petitioners / accused persons under section 167, 217 and 218 of the Indian Penal Code. The specific obscene words alleged to have uttered by the petitioners/ accused persons at the Police Station, a public place, as well as the indecent act of the 1st accused and threatening from the part of the petitioners/ accused Nos. 1 and 2 is brought out in the evidence u/s. 244 of the Code of Criminal Procedure. To the contrary, the Learned Counsel for the

petitioners / accused Nos. 1 and 2 argued that the wife and son of the respondent were not present in the vicinity and hence there is nothing to attract the offence punishable under section 509 of the Indian Penal Code. As the wife of the respondent testified before this Court that she was present at the place during the time and she felt insult through the act of the 1st accused, anything contrary has to be established by the petitioners/ accused Nos. 1 and 2 through cross examination or through their evidence. In such a circumstance, this Court is of the opinion that the petitioners/ accused Nos. 1 and 2 are not entitled to get discharge under sections 294 (b), 506 (i) and 509 of the Indian Penal Code. As the allegations being not protected ones within the official duty of the petitioners / accused persons, this Court is not inclined to absolve them from the liability mentioned in the instant case for the reason of absence of prosecution sanction under section 197 of the Code of Criminal Procedure. The innocence contended by the petitioners / accused persons can only be proved by them through the cross examination of the witnesses of the respondent or by adducing defence evidence. The contention of the Learned Counsel for the petitioners / accused Nos. 1 and 2 as to the delay in lodging the complaint, insufficiency of evidence and the interest of the witnesses to the case at hand, are all matters to be decided on merits after adjudication that the evidence of competent witnesses cannot be discarded for the reason of their relation with the respondent. This Court is of the opinion that at this stage, a case is made out against the petitioners / accused Nos. 1 and 2 in the evidence under section 244 of the Code of Criminal Procedure and there exists sufficient grounds to proceed with the instant case. Hence the petitioners / accused Nos. 1 and 2 are not entitled to get any discharge u/s. 245 (1) of the Code of Criminal Procedure and thus the petition is liable to be dismissed.

In the result, the petition is dismissed.

Pronounced in open court on this the 17th day of April, 2026.

sd/-

**Judicial First Class Magistrate-I,
Neyyattinkara.**

//True Copy //

Judicial First Class Magistrate-I, Neyyattinkara.

