

Crl.M.C.No.577/2021

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.ANIL KUMAR

FRIDAY, THE 18<sup>TH</sup> DAY OF JUNE 2021 / 28TH JYAISHTA, 1943

CRL.MC NO. 577 OF 2021

**PETITIONER/S:**

AKHIL C.,  
AGED 21 YEARS  
S/O.ARJUNAN, CHEMBAKARA VEEDU, PALLIPADI,  
KANJIRAPUZHA, PALAKKAD, KERALA, INDIA.

BY ADV CHERIAN MATHEW POOTHICOTE

**RESPONDENT/S:**

THE STATE OF KERALA  
REP.BY THE PUBLIC PROSECUTOR, HIGH COURT OF  
KERALA, ERNAKULAM 682 031

**OTHER PRESENT:**

PP SRI.M.R.DHANIL

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON  
18.06.2021, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

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**ORDER**

Heard the learned counsel for the petitioner and the learned Public Prosecutor.

2. The petitioner is arrayed as accused in FIR No.0565/2020 of Nilambur Police Station, Malappuram District alleging offence punishable under Section 102 of the Code of Criminal Procedure as per Exhibit A-1.

3. The prosecution allegation is that the petitioner was found using Motorola Phone bearing Sim No.7012840690 on 27.12.2020 and allegedly sent Whatsapp vidoes containing prohibited items including porn materials. Accordingly the phone was seized and the case was registered under Section 102 of Cr.P.C.

3. Apparently, the registration of crime under Section 102 of Cr.P.C. is not in accordance with the scheme of Criminal Procedure Code. Section 102(1) of the Cr.P.C. enables a Police Officer to seize any property which may be alleged or suspected to have been stolen or

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which may be found under circumstances which create suspicion of the commission of any offence. Needless to say that consequent to the seizure of property, it is necessary on the part of the Station House Officer to register a case in accordance with law. Section 102 of Cr.P.C. is not an offence and hence the registration of crime against the petitioner under Section 102 of Code of Criminal Procedure itself is illegal. Hence, the registration of crime under Section 102 of Cr.P.C. as per Exhibit A1 against the petitioner is liable to quashed.

In the result, the Crl.M.C. stands allowed. All further proceedings pursuant to Annexure A-1 FIR No.0605/2021 of Nilambur Police Station, Malappuram District against the petitioner stands quashed.

Sd/-

**N.ANIL KUMAR, JUDGE**

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**APPENDIX OF CRL.MC 577/2021**

PETITIONER ANNEXURE

ANNEXURE A1	THE TRUE COPY OF THE FIR NO.0565/202 OF NILAMBUR POLICE STATION, MALAPPURAM DISTRICT.
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