

News

Kerala High Court stays obscenity prosecution against actress Shwetha Menon



The FIR was launched based on a complaint accusing Menon of having acted in films and commercials that included filthy content, which were then reportedly shared through social media platforms and adult websites.

The Kerala High Court on Thursday suspended the criminal proceedings launched against Malayalam actress Shwetha Menon in a case brought against her over charges of participating in obscene films and ads for financial gain

Justice VG Arun handed the ruling observing that procedure under Section 175(3) of the Bharatiya Nagarik Suraksha Sanhita (BNSS) which deals with the procedure for a Magistrate to send a complaint to the police, prima facie, ought to have been dealt with.

As per this Section, "any Magistrate empowered under section 210 may, after considering the application supported by an affidavit made under sub-section section 173(3), and after making such inquiry as he thinks necessary and submission made in this regard by the police officer, order such an investigation as above-mentioned".

In this case, the Court remarked that the police seem to have launched the FIR within a short time after the Magistrate submitted a complaint against Menon.

"I find prima facie validity in the allegation of the learned counsel for the petitioner that before referring the complaint for investigation under Section 175(3) of the BNSS, the procedures therein ought to have been followed with. The conditions therein of calling for a report from the police and of launching an enquiry ought to have been fulfilled with. Considering the short duration within which the complaint was lodged and forwarded to the police, it appears that no such processes were followed," the Court said.

The Court, therefore, halted further proceedings based on the FIR and instructed the Magistrate involved to submit a report on whether the required procedure under Section 175(3) of BNSS was followed.

The Court also issued notice to State and Martin Menachery, the General Secretary of the News Paper Association of India (Kerala area), who filed the initial complaint with the Magistrate.

Justice VG Arun, Kerala High court

The order was passed on a petition moved by Menon to quash the first information report (FIR) registered against her by Ernakulam Central Police alleging commission of offences punishable under Section 67A of the Information Technology Act, 2000 (punishment for publishing or transmitting sexually explicit content in electronic form), along with Sections 3 and 5 of the Immoral Traffic (Prevention) Act, 1956, which deal with prostitution related offences.

The FIR was registered after the Ernakulam Chief Judicial Magistrate referred a complaint filed by Martin Menachery, to the police.

As to the allegation, Menon participated in films and commercials that included vulgar and obscene content, which was then allegedly shared through social media platforms and pornographic websites to acquire fame and generate income.

In her petition to quash the FIR, Menon maintained that the allegations were wholly unfounded and part of a motivated attempt to destroy her public image.

As per the plea, the films named in the complaint such as Paleri Manikyam, Rathinirvedham and Kalimannu, were legitimately released, certified by the censor board, and lauded for their artistic worth.

Menon pointed out that her performance in Paleri Manikyam won her the Kerala State Film Award for Best Actress.

The actor further denied any role in running pornographic websites and added that such defamatory charges have been made without any relevant evidence.

Menon's plea further noted that she had filed her candidacy to run for the post of President of the Association of Malayalam Movie Artists (AMMA) and that the complaint was filed on the last day for withdrawal of nominations. The FIR was registered shortly after.

She argued that the timing and nature of the complaint showed that it was aimed at damaging her candidature and reputation.

The petition was filed through advocates Unni Sebastian Kappen and M Revikrishnan