

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 19TH DAY OF JANUARY 2015/29TH POUSHA, 1936

CrI.MC.No. 1379 of 2014

CRIME NO. 102/2014 OF PATHANAPURAM POLICE STATION , KOLLAM

PETITIONER(S)/ACCUSED NO.2:

**MISS GAYATHRI KUNJITHAYA, AGED 36 YEARS
D/O.SEETHARAMU KUNJITHAYA, RESIDENT AT B-1804
BRIGADE METROPOLIS, MAHADEVAPURA, BALGORE.**

**BY ADVS.SRI.V.V.RAJA
SRI.M.T.SURESHKUMAR**

RESPONDENT(S)/STATE AND COMPLAINANT:

- 1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682 031.**
- 2. SUJA THOMAS
W/O.SIJU THOMAS, PUTHENPURACKAL VEEDU, MAKKULAM
PIRAVANTOOR VILLAGE-691 585.**

**R1 BY PUBLIC PROSECUTOR SRI.SREEJITH V.S.
R2 BY ADVS. SRI.MANOJ RAMASWAMY
SMT.SANJANA R.NAIR
SMT.V.SREEJA**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 19-01-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

**ANNEXURE-A1.TRUE COPY OF THE COMPLAINT DATED 12/12/2013 FILED BY THE
2ND RESPONDENT BEFORE THE JUDICIAL MAGISTRATE OF THE 1ST
CLASS, III PUNALUR.**

**ANNEXURE-A2.TRUE COPY OF THE FIR NO.102/2014 REGISTERED BY THE
PATHANAPURAM POLICE STATION DATED 16/1/2014.**

**ANNEXURE-A3.TRUE COPY OF THE COMPLAINT DATED 21/9/2012 REFERRED BY THE
2ND RESPONDENT BEFORE THE SUB INSPECTOR OF POLICE, WHITE
FIELD POLICE STATION, BANGLORE.**

**ANNEXURE-A4.TRUE COPY OF THE FIR REGISTERED BY THE WHITE FIELD POLICE
STATION BANGLORE AS CRIME NO.266/2012 DATED 22/9/2012.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

[CR]

B.KEMAL PASHA, J.

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Crl.M.C. No. 1379 of 2014

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Dated this the 19th day of January, 2015

ORDER

Can a girlfriend or a concubine of the husband be treated as a relative of the husband within the meaning under Section 498A IPC, is the short question arises for consideration here.

2. The 2nd accused in Crime No.102/2014 of the Pathanapuram Police Station, pending before the Judicial First Class Magistrate's Court-III, Punalur, has come up under Section 482 Cr.P.C., to get the proceedings against her in the crime quashed. The crime has been registered for the offence under Section 498A read with Section 34 IPC.

3. The 1st accused in the crime is the husband of the defacto complainant. The defacto complainant has alleged

that he had tortured and harassed her and treated her with cruelty within the meaning of Section 498A IPC. The allegation against the present petitioner is that she was the superior officer of the 1st accused working at Technicolor India Pvt. Ltd. at Bangalore wherein the 1st accused was also working. According to the defacto complainant, there was illicit relationship between the 1st accused and the petitioner herein. It is also alleged that the petitioner also had treated the defacto complainant with cruelty.

4. Heard learned counsel for the petitioner, learned counsel for the defacto complainant, who is the 2nd respondent herein, and the learned Public Prosecutor.

5. It seems that the crime has been registered on the basis of a private complaint filed by the defacto complainant before the Judicial First Class Magistrate's Court-III, Punalur, which was referred to the Police under Section 156(3) Cr.P.C. Even in the private complaint, the only offence alleged against the 1st accused as well as the petitioner is under Section 498A

IPC read with Section 34 IPC. It seems that the defacto complainant has no case that the petitioner had committed any other offence. It seems that the petitioner is also roped in an offence under Section 498A IPC, by styling the petitioner as a concubine of the 1st accused.

6. The learned counsel for the petitioner has pointed out that the petitioner cannot be treated as a 'relative' of the 1st accused and, therefore, an offence under Section 498A IPC cannot be alleged against the petitioner within the meaning of the said provision. The learned counsel for the petitioner has invited my attention to the decision in ***Suvetha U. v. State by Inspector of Police and Another [2009 (6) SCC 757]***, wherein it was held that a 'girlfriend' of the husband cannot be treated as a 'relative of the husband' within the meaning of Section 498A IPC. In ***Sunita Jha v. State of Jharkhand and Another [2010 (10) SCC 190]***, it was held that neither a girlfriend nor a concubine of the husband is a 'relative of the husband' within the meaning of Section 498A IPC. In ***Vijeta***

Gajra v. State of NCT of Delhi [2010 (11) SCC 618], it has been held that the word 'relative' in Section 498A IPC, would be limited only to blood relations or relation by marriage.

7. The defacto complainant has no case that the petitioner has any blood relation with the 1st accused or that she is in any way related to him through a marriage. Matters being so, it is evident that when the petitioner is merely styled as a girlfriend or as a concubine of the 1st accused, she cannot be treated as a relative of the 1st accused within the meaning of Section 498A IPC and, therefore, an offence under Section 498A IPC cannot be attributed to the petitioner. Therefore, she cannot be roped in an offence under Section 498A read with Section 34 IPC. Matters being so, the proceedings as against the petitioner in the said crime are liable to be quashed.

In the result, this Crl.M.C. is allowed and Annexure-I complaint and Annexure-II First Information Report in Crime No.102/2014 of the Pathanapuram Police Station, pending

before the Judicial First Class Magistrate's Court-III, Punalur and all further proceedings based on it, as against the petitioner alone, are hereby quashed.

Sd/-
B.KEMAL PASHA
JUDGE

DSV/20/1/15

// True Copy //

P.A. To Judge