

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 23RD DAY OF SEPTEMBER 2015/1ST ASWINA, 1937

Crl.MC.No. 3319 of 2015 (C)

C.C.NO.2801/2014 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-I, KOTTAYAM

CRIME NO. 1057/2014 OF KOTTAYAM EAST POLICE STATION , KOTTAYAM

PETITIONER/ACCUSED :-

**SUSHAMMA M.B., AGED 42 YEARS,
W/O.SHIBUKUTTAN, THADATHIL VEEDU,
PAYYAPADI P.O.,
PUTHUPALLY VILLAGE, KOTTAYAM.**

**BY ADVS.SRI.B.S.SWATHI KUMAR
SRI.A.K.RAJESH
SRI.VENKATESH GOPI
SMT.T.RESHMA**

RESPONDENTS/COMPLAINANT & STATE :-

- 1. SOSAMMA ISSAC @ KUNJAMMA,
W/O.ISSAC YOHANNAN, MANNATHIMATTAM HOUSE,
MALAKUNNAM BHAGAM, PAYYAPADI P.O.,
PUTHUPALLY VILLAGE,
KOTTAYAM, PIN - 686 611.**
- 2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, PIN - 682 031.**

R BY PUBLIC PROSECUTOR

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 23-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' ANNEXURES :-

- ANNEXURE -A : TRUE COPY OF THE MEDICAL CERTIFICATE DATED 5.1.2000
ISSUED BY THE MEDICAL COLLEGE HOSPITAL, KOTTAYAM.
- ANNEXURE -B : TRUE COPY OF THE JUDGMENT IN WP(C)NO.6415/2013 DATED
26.11.2014.
- ANNEXURE -C : TRUE COPY OF THE ORDER IN M.C.NO.25/12 DATED 5.12.2012 OF
THE JUDICIAL MAGISTRATE OF IST CLASS-I, KOTTAYAM.
- ANNEXURE -D : TRUE COPY OF THE PETITION FILED BY THE PETITIONER
BEFORE THE SUB INSPECTOR OF POLICE, KOTTAYAM EAST
POLICE STATION DATED 2.5.2014.
- ANNEXURE -E : TRUE COPY OF THE PETITION FILED BY THE PETITIONER
BEFORE THE SUB INSPECTOR OF POLICE, KOTTAYAM EAST
POLICE STATION DATED 3.5.2014.
- ANNEXURE -F : TRUE COPY OF THE PETITION FILED BY THE PETITIONER BEFORE
THE CIRCLE INSPECTOR OF POLICE, KOTTAYAM DATED 2.10.2014.
- ANNEXURE -G : TRUE COPY OF THE FINAL REPORT IN C.C.NO.2801/2014 OF THE
JUDICIAL FIRST CLASS MAGISTRATE COURT - I, KOTTAYAM
DATED 2.10.2014.
- ANNEXURE -H : TRUE COPY OF THE ACCIDENT REGISTER-CUM-WOUND
CERTIFICATE DATED 2.10.2014 OF THE IST RESPONDENT.

RESPONDENT(S)' ANNEXURES :- NIL

//TRUE COPY//

P.A. TO JUDGE

P.UBAID, J.

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Crl.M.C.No.3319 of 2015

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Dated this the 23rd day of September, 2015

ORDER

The petitioner herein is the sole accused in C.C.No.2801 of 2014 of the Judicial First Class Magistrate Court-I, Kottayam. The said prosecution involving the offences under Sections 324 and 294(b) of the Indian Penal Code is sought to be quashed on the ground that the prosecution does not have any satisfactory material to prove the alleged offences. The victim of offence in this case is a housemaid. The relationship between the petitioner and her husband stands strained. The mother-in-law is also not in good terms with her. The alleged incident happened in such a situation. Final report was submitted by the police on 20.10.2014 under the above sections along with the necessary materials including the wound certificate, showing the details of the injury sustained by the victim. The State has filed statement of objection, that

investigation revealed the offences alleged, and accordingly final report was submitted in Court along with the necessary material including medical documents.

2. On hearing both sides, and on a perusal of the materials including the wound certificate, I find that this prosecution cannot be quashed under Section 482 Cr.P.C. The complaint, and also the final report contain allegations constituting the offence alleged under Section 324 IPC, though the materials as regards 294(b) IPC are not definite. Copy of the wound certificate shows that the victim had sustained a lacerated wound 3x2x1 cms on the left side of her forehead in the alleged incident. The victim's further statements are also produced by the police. This is not a case where the prosecution does not have any material to prove the offences alleged. Whether those materials are sufficient for framing a charge against the petitioner under Section 294(b) and 324 IPC, will be looked into by the trial court. Without prejudice to the right of the petitioner to make application for discharge, this petition to quash the prosecution can be closed. When the prosecution has some materials to proceed for trial, it would be inappropriate for the High Court to quash the

prosecution under Section 482 Cr.P.C.

In the result, this Crl.M.C. is dismissed, without prejudice to the right of the petitioner to make application for discharge before the learned Magistrate. It is submitted that the petitioner is a physically disabled person. If she wants exemption from personal appearance, appropriate application can be filed before the learned Magistrate.

Sd/-
P.UBAID
JUDGE

rkj

//TRUE COPY//

P.A. TO JUDGE