

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

FRIDAY, THE 26TH DAY OF JUNE 2015/5TH ASHADHA, 1937

Crl.MC.No. 3878 of 2015

S.C.NO.700/2012 OF PRL. SESSIONS COURT, PALAKKAD

**CRIME NO. 83/2012 OF SREEKRISHNAPURAM POLICE STATION,
PALAKKAD DISTRICT**

PETITIONER(S)/ACCUSED NOS.1 & 2 :

- 1. KANNANKUTTY, AGED 27 YEARS,
S/O.UNNIKRISHNAN, ANNADAMBIL HOUSE, KULAKKATTUKURISSI,
PALAKKAD DISTRICT.**
- 2. BALAKRISHNAN, AGED 47 YEARS,
S/O.RAMAGUPTHAN, ANNADAMBIL HOUSE, KULAKKATTUKURISSI,
PALAKKAD DISTRICT.**

BY ADV. SRI.NIREESH MATHEW

RESPONDENT(S)/STATE & DEFACTO COMPLAINANT & CW 2 :

- 1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM- 682 031.**
- 2. VISWANANDHAN, AGED 12 YEARS,
S/O.SUBRAMANIAN, ANNADAMBIL HOUSE, KULAKKATTUKURISSI,
PALAKKAD DISTRICT, REPRESENTED BY HIS FATHER AND NATURAL
GUARDIAN, SRI.SUBRAMANIAN, ANNADAMBIL HOUSE,
KULAKKATTUKURISSI, PALAKKAD DISTRICT- 678 001.**
- 3. SATHI, AGED 35 YEARS,
W/O.SUBRAMANIAN, ANNADAMBIL HOUSE, KULAKKATTUKURISSI,
PALAKKAD DISTRICT.**

**R1 BY PUBLIC PROSECUTOR SRI.V.S.SREEJITH
R2 & R3 BY ADV. SRI.N.P.PRAJEESH**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 26-06-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' ANNEXURES :

**ANNEXURE A: PHOTOCOPY OF THE FINAL REPORT IN CRIME NO.88/2012
 OF SREEKRISHNAPURAM POLICE STATION.**

**ANNEXURE B: THE ORIGINAL OF THE AFFIDAVIT SWORN TO BY
 THE RESPONDENT NO.2 BEFORE HIS ADVOCATE AT
 PALAKKAD, DATED 10.05.2015.**

**ANNEXURE C: THE ORIGINAL OF THE AFFIDAVIT SWORN TO BY
 THE RESPONDENT NO.3 BEFORE HIS ADVOCATE AT
 PALAKKAD, DATED 10.05.2015.**

RESPONDENT(S)' ANNEXURES :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

K. ABRAHAM MATHEW, J.

CRL.M.C.No.3878 of 2015

Dated this the 25th day of June, 2015

ORDER

Petition filed under Section 482 Cr.P.C.

2. Petitioners are the accused in SC.No.700/2012 on the file of Sessions Judge, Palakkad. They are charged with having committed the offences under Sections 341, 324, 506(ii) read with Section 34 of Indian Penal Code and Section 23 of the Juvenile Justice (Care & Protection of Children) Act. It is submitted that the matter has been settled and the proceedings in the criminal case may be quashed.

3. Heard the learned counsel for the petitioners and respondents 2 and 3 and the learned Public Prosecutor.

3. The second respondent is a minor aged 12 years. The prosecution case is that the petitioners wrongfully confined, threatened and assaulted him. The police filed a final report showing that the offences committed by the petitioners fall under Sections 341, 324, 506(ii) read with Section 34 of Indian Penal Code and Section 23 of the Juvenile Justice (Care & Protection of

Children) Act. But the learned Magistrate took cognizance of Section 23 of the Juvenile Justice (Care & Protection of Children) Act also, which appears to be very strange. Section 23 of the Juvenile Justice (Care & Protection of Children) Act is attracted only if the accused had control or custody of the victim. The facts of the case do not disclose that the petitioners had control or custody of the first respondent. So the learned Magistrate was wrong in take a cognizance of the offence under Section 23 of the Juvenile Justice (Care & Protection of Children) Act. I have perused the affidavits filed by respondents 2 and 3. I am satisfied that the matter has been settled and no public interest is involved in this case.

In the result, this Crl.M.C. is allowed. The proceedings in S.C.No.700/2012 on the file of the Sessions Judge, Palakkad are quashed.

sd/-
K. ABRAHAM MATHEW
JUDGE

R.AV

//True Copy//

PA to Judge