

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 2ND DAY OF NOVEMBER 2015/11TH KARTHIKA, 1937

Crl.MC.No. 4096 of 2015 (D)

CC 876/2015 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, THRIPIUNITHURA

CRIME NO.1108/2012 OF HILL PALACE POLICE STATION, ERNAKULAM

PETITIONER(S)/ACCUSED 1 TO 3 :-

- 1. BIJU PRABHAKARAN, AGED 41 YEARS,
S/O. PRABHAKARAN, MADHAVA MANDIRAM, PATTUMUKKU,
KARUVATTA NORTH, ALAPPUZHA.**
- 2. PRABHAKARAN, AGED 88 YEARS,
MADHAVA MANDIRAM, PATTUMUKKU, KARUVATTA NORTH,
ALAPPUZHA.**
- 3. JANAMMA PRABHAKARAN, AGED 79 YEARS,
W/O. PRABHAKARAN, MADHAVA MANDIRAM, PATTUMUKKU,
KARUVATTA NORTH, ALAPPUZHA.**

**BY ADVS.SRI.S.RAJEEV
SRI.K.K.DHEERENDRA KRISHNAN
SRI.V.VINAY**

RESPONDENT(S)/STATE AND COMPLAINANT :-

- 1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031
(CRIME NO. 1108/2012 OF HILL PALACE POLICE STATION,
THRIPIUNITHURA, ERNAKULAM DISTRICT)**
- 2. ANJANA MOHAN, AGED 31 YEARS,
D/O.K. MOHANAN, SHIVAKRIPA, KOLLAMPADY,
THRIPIUNITHURA, ERNAKULAM - 682 304.**

**R2 BY ADVS. SRI.PHILIP T.VARGHESE
SRI.THOMAS T.VARGHESE
SMT.ACHU SUBHA ABRAHAM
SMT.K.R.MONISHA
SMT.CHITHRA CHANDRASEKHARAN
R1 BY SMT.MADHUBEN, PUBLIC PROSECUTOR**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 02-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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Crl.MC.No. 4096 of 2015 (D)

APPENDIX

PETITIONER(S)' ANNEXURES :-

**ANNEXURE I : CERTIFIED COPY OF THE FIRST INFORMATION REPORT IN
CRIME NO.1108/2012 OF HILL PALACE POLICE STATION.**

ANNEXURE II : CERTIFIED COPY OF THE FINAL REPORT IN C.C.NO.876/2015.

RESPONDENT(S)' ANNEXURES :- NIL

//TRUE COPY//

P.A. TO JUDGE

rkj

P.UBAID, J.

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Crl.M.C.No.4096 of 2015
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Dated this the 2nd day of November, 2015

ORDER

The petitioners herein are the three accused in C.C.No.876 of 2015 of the Judicial First Class Magistrate Court, Thripunithura. They are the husband and the parents in-law of the defacto complainant, who is the 2nd respondent herein. The prosecution involves the offence under Section 498A IPC read with Section 34 IPC. The prosecution case is that the second respondent had been subjected to mental and physical harassment by her husband, and that these acts of the husband were facilitated by the parents in-law. The petitioners also seek orders quashing the said prosecution on the ground that the complaint, or the final report, does not contain any definite material for proving the allegations made under Section 498A IPC.

2. On hearing both sides, and on a perusal of the materials, I find that the prosecution against the petitioners 2 and 3 herein is really baseless. The second petitioner is aged 88 years,

and the third petitioner is aged 79 years. It is impossible to believe that at this is very advanced age the parents in-law could mentally or physically harass or torture the defacto complainant. On a perusal of the complaint and the final report, I find that the main allegations of the complainant are against her husband, and as against the parents in-law there is only a casual allegation that they facilitated the acts of cruelty at the hands of the husband. The final report does not show how exactly the aged parents in-laws abetted the commission of offence by the complainant's husband. It has been an unpleasant, and an unhealthy common practice that whenever a complaint is brought under Section 498A IPC, the complainant would, or she will be advised to arraign all the inmates of the matrimonial home as accused in the complaint. Here, I find that the petitioners 2 and 3 were quite unnecessarily arraigned as accused in the complaint. They are the aged parents in-law of the complainant, I find that the main grievance is against her husband. As regards the husband, I find no reason or ground to quash the prosecution under Section 482 Cr.P.C. He will have to face trial before the learned Magistrate. If he is confident that he can obtain discharge, he can even make an application for discharge before the learned Magistrate.

In the result, this petition is allowed in part. The prosecution as against the petitioners 2 and 3 as the accused Nos.2 and 3 in

C.C.No.876 of 2015 before the Judicial First Class Magistrate Court, Thripunithura will stand quashed under Section 482 Cr.P.C. Accordingly, they will stand released from prosecution, and the bail bond, if any, executed by them will stand discharged. The prosecution in the said case will continue against the first petitioner(first accused), without prejudice to his right to make an application for discharge before the learned Magistrate.

Sd/-
P.UBAID
JUDGE

rkj

//TRUE COPY//

P.A. TO JUDGE