

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 25TH DAY OF MARCH 2015/4TH CHAITHRA, 1937

CrI.MC.No. 3843 of 2014 ()

MC.NO. 85/2013 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, THIRUVALLA

PETITIONER/2ND RESPONDENT :

**MARIAM MATHEW @ MERLY MATHEW
AGED 51, W/O.MATHEW GEORGE
PAYATTUKALAYIL PRAKKATT MANNATH HOUSE
KEEZHVAIPUR, MURI & P.O
MALLAPPALLY VILLAGE AND TALUK
PATHANAMTHITTA DISTRICT
PIN - 689 587.**

**BY ADVS.SRI.JESWIN P. VARGHESE
SRI.BIJO THOMAS GEORGE**

RESPONDENTS/PETITIONER & RESPONDENTS 1 & 3 :

- 1. RACHEL GEORGE,
AGED 51, D/O.P.T.GEORGE
NOW RESIDING AT PAYATTUKALAYIL PRAKKATT MANNATH HOUSE
KEEZHVAIPUR MURI & P.O
MALLAPPALLY VILLAGE AND TALUK
PATHANAMTHITTA DISTRICT, PIN - 689 587**
- 2. MATHEW GEORGE,
AGED 56, S/O.P.T.GEORGE
PAYATTUKALAYIL PRAKKATT MANNATH HOUSE
KEEZHVAIPUR MURI & P.O
MALLAPPALLY VILLAGE AND TALUK
PATHANAMTHITTA DISTRICT, PIN 689 587. (*DELETED)**
- 3. THOMAS GEORGE
AGED 63, S/O.P.T.GEORGE, 1/22-SOUTH CITY II, GURGAON
HARIYANA STATE AND PERMANENT ADDRESS AT
PAYATTUKALAYIL PRAKKATT MANNATH HOUSE
KEEZHVAIPUR MURI & P.O
MALLAPPALLY VILLAGE AND TALUK
PATHANAMTHITTA DISTRICT, PIN 689 587. (*DELETED)**

**4. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.**

***DELETED**

***R2 & R3 DELETED AS PER ORDER DATED 4/2/15 IN CRL.M.A. NO. 892/15 IN
CRL.M.C NO. 3843/14 BY HON'BLE BKP(J)**

**R1 BY ADV. SRI.K.N.RADHAKRISHNAN (THIRUVALLA)
R4 BY PUBLIC PROSECUTOR JIBU P. THOMAS**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 25-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

Mn

...3/-

Crl.MC.No. 3843 of 2014 ()

APPENDIX

PETITIONER(S)' ANNEXURES :

**ANNEXURE A - PHOTOCOPY OF COMPLAINT IN M.C.85/2013 OF JFMC,
 THIRUVALLA.**

**ANNEXURE B - PHOTOGRAPH SHOWING THE THREATENING OF 1ST
 RESPONDENT.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

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B.KEMAL PASHA, J.

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Crl.M.C.No.3843 of 2014

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Dated this the 25th day of March, 2015

ORDER

The petitioner, who is the 2nd respondent in M.C.No.85 of 2013 of the Judicial First Class Magistrate's Court, Thiruvalla filed by the 1st respondent herein under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to 'the Act').

2. According to the petitioner, the petitioner is the wife of the 1st respondent, who is none other than the brother of the complainant and therefore, she cannot be made a "respondent" within the meaning of Section 2(q) of the Act. Section 2(q) of the Act reads as follows:

"respondent" means any adult male person who is, or has been, in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought

any relief under this Act:

Provided that an aggrieved wife or female living in a relationship in the nature of a marriage may also file a complaint against a relative of the husband or the male partner;”

3. Admittedly, the 2nd respondent in M.C., who is the petitioner herein, is not a relative of the husband or male partner of the complainant. Matters being so, the proceedings against the petitioner herein is not legally sustainable.

In the result, this Crl.M.C. is allowed and the proceedings as against the present petitioner herein alone are quashed. Matter can be proceeded with as against other respondents.

Sd/-

B.KEMAL PASHA
JUDGE

DSV/25/3/15