

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

THURSDAY, THE 8TH DAY OF JANUARY 2015/18TH POUSHA, 1936

Crl.MC.No. 4810 of 2014

C.C.NO.424/2013 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, KATTAPPANA

CRIME NO. 1672/2012 OF KATTAPPANA POLICE STATION , IDUKKI

PETITIONER(S)/ACCUSED 2 & 3 :

1. JOY,
S/O.ABRAHAM, MITTATHANIKKAL HOUSE, THOOMKUZHY,
VALLAKKADAVU, NARIYAMPARAKARA, KATTAPPANA VILLAGE,
IDUKKI DISTRICT.
2. MARYKUTTY, AGED 50 YEARS,
W/O.JOY, MITTATHANIKKAL HOUSE, THOOMKUZHY,
VALLAKKADAVU, NARIYAMPARAKARA, KATTAPPANA VILLAGE,
IDUKKI DISTRICT.

BY ADVS.SRI.M.B.SANDEEP
SMT.R.PRIYA
SRI.V.VISAL AJAYAN
SRI.B.SURJITH
SRI.ABHILASH JOSE
SMT.B.DHANYA

RESPONDENT(S)/DEFACTO COMPLAINANT/CHARGE WITNESS NO.3,5,6,8,9,10,11,12.:

1. ASWATHY, AGED 33 YEARS
D/O.GOPINATHAN PILLAI, ASWATHY BHAVANAM, PAMPUM MUKKU,
CHOOTTUPARA, KARUNAPURAM VILLAGE, IDUKKI DISTRICT, PIN-685 552.
2. MONSI, AGED 32 YEARS,
W/O.SHIJO ABRAHAM, MITTATHANIKKAL HOUSE, THOOMKUZHY,
VALLAKKADAVU, NARIYAMPARAKARA, KATTAPPANA VILLAGE,
IDUKKI DISTRICT, PIN-685 533.
3. AJESH, AGED 34 YEARS,
S/O.BALACHANDRAN, EDAKKATTU HOUSE, THOOMKUZHY,
VALLAKKADAVU, NARIYAMPARAKARA, KATTAPPANA VILLAGE,
IDUKKI DISTRICT, PIN-685 533.

4. MANJU, AGED 32 YEARS,
W/O.AJESH, EDAKKATTU HOUSE, THOOMKUZHY,
VALLAKKADAVU, NARIYAMPARAKARA, KATTAPPANA VILLAGE,
IDUKKI DISTRICT, PIN-685 533.
5. JOSEPH, AGED 64 YEARS,
S/O.DEVASSYA, NELLIKUNNEL HOUSE, THOOMKUZHY,
VALLAKKADAVU, NARIYAMPARAKARA, KATTAPPANA VILLAGE,
IDUKKI DISTRICT-685 533.
6. ALICE, AGED 58 YEARS,
W/O.KUNJUMON, PAZHUPARAYIL HOUSE, THOOMKUZHY,
VALLAKKADAVU, NARIYAMPARAKARA, KATTAPPANA,
IDUKKI DISTRICT, PIN- 685 533.
7. JAYAN, AGED 38 YEARS,
S/O.DAMODARAN, PALLIKUNNEL HOUSE, THOOMKUZHY,
VALLAKKADAVU, NARIYAMPARAKARA, KATTAPPANA VILLAGE,
IDUKKI DISTRICT, PIN- 685 533.
8. MANOJ, AGED 38 YEARS,
S/O.KUTTY, THAYYAT KIZHAKKETHIL HOUSE,
THOOMKUZHY, VALLAKKADAVU, NARIYAMPARAKARA,
KATTAPPANA VILLAGE, IDUKKI DISTRICT, PIN- 685 533.
9. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA THROUGH SUB INSPECTOR OF POLICE,
KATTAPPANA POLICE STATION, PIN- 682 031.

R1 BY ADV. SRI.V.V.NANDAGOPAL NAMBIAR
R9 BY PUBLIC PROSECUTOR SRI.JIBU.P.THOMAS

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 08-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

APPENDIX

PETITIONER(S)' ANNEXURES :

- ANNEXURE-A1:** TRUE COPY OF THE ORDER DATED 13/01/2010 IN
CC NO.180/2009.
- ANNEXURE-A2:** TRUE COPY OF THE FIS DATED 10/09/2012 IN
CRIME NO.1672/2012 OF THE KATTAPPANA POLICE STATION.
- ANNEXURE-A3:** TRUE COPY OF THE FIR DATED 10/09/2012 IN
CRIME NO.1672/2012 OF THE KATTAPPANA POLICE STATION.
- ANNEXURE-A4:** TRUE COPY OF THE 173 REPORT SUBMITTED BY
THE 2ND RESPONDENT DATED 12/11/2012 BEFORE
THE JUDICIAL FIRST CLASS MAGISTRATE COURT,
THODUPUZZHA.

RESPONDENT(S)' ANNEXURES :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

B.KEMAL PASHA, J.

Crl.M.C.No. 4810 of 2014

Dated this the 8th day of January, 2015

ORDER

Accused Nos. 2 and 3 in C.C.No.424 of 2013 of the Judicial First Class Magistrate's Court, Kattappana are the petitioners herein. They have come up under Section 482 Cr.P.C. to get Annexure A4 Final Report and all further proceedings based on it in C.C.No.424 of 2013 of the said court, quashed.

2. According to the petitioners, no specific overt acts are alleged against them for bringing out an offence under Section 498 A read with Section 34 IPC as against them and therefore they are entitled to get the proceedings against them quashed.

3. The 1st accused is the husband of the defacto

complainant. The petitioners herein are the parents of the 1st accused. The prosecution case is that right from the marriage of the defacto complainant with the 1st accused onwards, she was being tortured and harassed and was treated with cruelty within the meaning of Section 498 A IPC by the 1st accused and the petitioners herein. It is specifically alleged that on 09.09.2012, the 1st accused fisted the defacto complainant on her left eye and by catching hold of the tuft of her hair, he hit on her head and kicked and stamped on her back. When she ran out of the house by escaping from the clutches of the 1st accused, the petitioners herein rushed to her and it is alleged that the 2nd petitioner forcibly caught hold of her right hand and twisted it thereby voluntarily causing injury by way of pain to her and she was dragged from the road to the house. The 1st petitioner also advanced towards her, caught hold of her left hand, forcibly twisted it thereby causing pain, and she was dragged to the house from the road. It is alleged that both the petitioners along with the 1st accused were hand in

gloves in carrying out torture and harassment to the defacto complainant.

4. Heard learned counsel for the petitioners, learned counsel for the defacto complainant, who is the 1st respondent and learned Public Prosecutor.

5. On going through the prosecution records, it cannot be said that there are no specific allegations against the petitioners. It seems that specific overt acts are alleged against the petitioners also. It has been further alleged that the petitioners were also sharing common intention along with the 1st accused in carry out torture and harassment to the 1st respondent. It has come out that two children are born in the wedlock of the defacto complainant with the 1st accused, one of whom is mentally retarded. It is a fact that they are not being looked after and maintained by the 1st accused. It seems that the defacto complainant was running from pillar to post to get maintenance from the 1st accused and all sorts of evasive attitudes and steps are being resorted to by the 1st accused to see that the amount of

maintenance ordered by this Court is not given. Even though this Court has passed order dated 01.08.2014 in R.P.(FC) No.272 of 2014, thereby ordering the 1st accused to pay maintenance to the defacto complainant and the children from the date of petition onwards, still it seems that the petitioners are maintaining a case that the order is yet to be clarified. In fact there is absolutely nothing to be clarified.

6. When specific allegations are there, which constitute elements for bringing out an offence under Section 498 A IPC, this is not a fit case wherein this Court can exercise the powers conferred on this Court under Section 482 Cr.P.C. to quash the proceedings against these petitioners. This Crl.M.C. is devoid of merits, and is only to be dismissed, and I do so.

In the result, this Crl.M.C. is dismissed.

Sd/-
B.KEMAL PASHA
JUDGE

DSV/8/1/15

// True Copy //

P.A. To Judge