

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 10TH DAY OF DECEMBER 2015/19TH AGRAHAYANA, 1937

Cr1.MC.No. 5760 of 2013 ()

CC 431/2011 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, MATTANNUR

PETITIONER(S)/ACCUSED:

JOLLY, AGED 37 YEARS,
S/O.LAZAR, PULICHUMAKKALTHITTIYIL HOUSE
AYYANKUNNU AMSOM, VANIPPARA, KANNUR DISTRICT.

BY ADVS.SRI.C.P.PEETHAMBARAN
SMT.MINI.V.A.

RESPONDENTS/STATE & DEFACTO COMPLAINT:

-
1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.
 2. PRIYA SCARIA, AGED 32 YEARS,
D/O.SCARIA, MANALEL HOUSE, AYYANKUNNU AMSOM
KOOMENTHODE, KARIKOTTAKKARIL P.O., KANNUR DISTRICT.

R2 BY ADV. SRI.RAJIT
R1 BY PUBLIC PROSECUTOR SRI.JUSTIN JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
10-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 5760 of 2013 ()

APPENDIX

PETITIONER(S) ' EXHIBITS

ANNEXURE A1: COPY OF THE FIR WITH F.I.STATEMENT IN CRIME
NO.19/2011 OF KARIKOTTAKKARI POLICE STATION,
KANNUR.

ANNEXURE A2: COPY OF THE FINAL REPORT IN C.C. NO.431/2011 OF
JUDICIAL FIRST CLASS MAGISTRATE COURT, MATTANNUR.

ANNEXURE A3: COPY OF THE MARRIAGE CERTIFICATE ISSUED BY THE
MARRIAGE OFFICER, ULIYIL, KANNUR DISTRICT DATED
18/7/2013.

RESPONDENT(S) ' EXHIBITS NIL

//TRUE COPY//

PA TO JUDGE

bka/-

P. UBAID, J.

Crl. M.C. No. 5760 of 2013

Dated this the 10th day of December, 2015

ORDER

The petitioner herein is the sole accused in CC No.431/2011 of the Judicial First Class Magistrate Court, Mattannoor. The case now stands transferred to the register of long pending cases as LP No.45/2012. When the police came with warrant of arrest, the petitioner approached this Court for orders quashing prosecution under Section 482 of the Code of Criminal Procedure. He seeks relief on the ground that the complaint or the final report does not contain the essentials for a prosecution under Section 498(A) of the Indian Penal Code.

2. On hearing both sides and on a perusal of materials including the complaint and the final report, I find that the prosecution brought by the Police is not baseless. In the complaint, the 2nd respondent has made allegations against her husband, that she had been mentally and physically harassed by her husband by a course of cruel conduct. The Police conducted

..2..

investigation and collected materials substantiating such allegations. Accordingly, a final report was filed in court. On a perusal of the materials, I find that there is nothing to indicate that continuance of this prosecution will be an abuse of legal process. I find no reason or ground to quash the prosecution under Section 482 of the Code of Criminal Procedure. However, the remedy available to the petitioner to apply for discharge is open. He can approach the learned Magistrate and, if so advised, he can file application for discharge. There is absolutely no reason or ground to quash the prosecution as such under Section 482 of the Code of Criminal Procedure.

In the result, the Crl.M.C. is dismissed in limine without being admitted to files, however, without prejudice to the right of the petitioner to make an application for discharge before the learned Magistrate.

Sd/-
P. UBAID
JUDGE