

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

TUESDAY, THE 20TH DAY OF JANUARY 2015/30TH POUSHA, 1936

Crl.MC.No. 6494 of 2014

MC 15/2013 of JUDICIAL FIRST CLASS MAGISTRATE COURT-II, KOCHI

PETITIONER(S):

1. **SMT.REMYA, D/O.MURALIDHARAN, 21/598(15/769),
PERUMPADAPPU, KOCHI-6.**
2. **SHRI.MURALIDHARAN,
21/598 (15/769), PERUMPADAPPU, KOCHI-6.**
3. **SMT.RAMADEVI, W/O.MURALIDHARAN, 21/598(15/769),
PERUMPADAPPU, KOCHI-6.**

BY ADV. SMT.SHERLY THOMAS

RESPONDENT(S):

1. **SMT.SHANI K.F, AGED 27 YEARS
D/O.FRANCIS, KOCHERIL, SNDPY ROAD
PALLURUTHY.P.O.,KOCHI-682 006.**
2. **SHRI AUGUSTIN BONY P.R, AGED 29 YEARS
S/O.ROCKEY, PULLAMPLAVIL VEEDU
NEAR GOVERNMENT HOSPITAL, KUMBALANGI, KOCHI-682007.**
3. **SMT.SHERLY ROCKY, AGED 50 YEARS
W/O.ROCKY, PULLAMPLAVIL VEEDU
NEAR GOVERNMENT HOSPITAL, KUMBALANGI, KOCHI-682007.**
4. **SHEELA JEROME
W/O.JEROME, LATE COUNSELLER, DEEPAM JUNCTION
PALLURUTHY, KOCHI-682 006.**

BY ADV. SRI.M.H.HANIS

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 20-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

PJ

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APPENDIX

PETITIONER(S)' ANNEXURES

ANNEXURE 1- COPY M.C.NO.15 OF 2013.

**ANNEXURE 2- COPY OF THE COUNTER FILED BY THE PETITIONERS (I.E.
RESPONDENT 3,4 & 5 IN M.C)**

RESPONDENT(S)' ANNEXURES

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

B. KEMAL PASHA, J.
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Dated this the 20th day of January, 2015

ORDER

The 1st respondent was given in marriage to the 2nd respondent. In their wedlock, a child was also born. While they were residing together as husband and wife, the 2nd respondent used to torture and harass the 1st respondent. As she was abandoned and she was treated with cruelty and moreover the 2nd respondent was allegedly a womanizer having relationship with other women of evil repute, their relationship became strained. Subsequently, the 2nd respondent approached the Family Court, Ernakulam for a divorce. While the case was going on, there was a re-union at the instance of their relatives. The 2nd respondent made the 1st respondent believe that he was not proceeding with the divorce proceedings. At the same time secretly he had proceeded with the divorce proceedings secretly and obtained an ex

parte decree against the 1st respondent. When the 1st respondent came to know about it, she had approached the Family Court, Ernakulam, and filed a petition for getting the ex parte decree set aside.

2. In the meantime, he approached the 1st petitioner herein and her parents, who are petitioners 2 and 3 with a marriage proposal and by exhibiting the ex parte decree obtained by him, he married the 1st petitioner through the provisions of the Special Marriage Act. Even though the marriage was conducted, according to the 1st petitioner, she had never resided together with the 2nd respondent, and she is still residing at her house with her parents.

3. As there were attempts from the part of the 2nd respondent to throw away the 1st respondent from the shared household, she was constrained to file MC 15 of 2013 before the Judicial First Class Magistrate Court-II,

Kochi under Section 12 of the Protection of Women from Domestic Violence Act. The 2nd respondent had approached the Kochi Kasba police with a request for getting the 1st respondent evicted from the house on the strength of the ex parte decree obtained by him. When the 1st respondent was summoned by the Kochi Kasba police, she explained everything to the police and after that the police did not proceed with the complaint of the 2nd respondent. According to the 1st respondent, she was threatened of forcible eviction from the house by the 2nd respondent with the aid of the 1st petitioner, based on the 2nd marriage of the 2nd respondent with the 1st petitioner.

4. The 1st respondent has sought for a relief against domestic violence, maintenance of ₹ 15,000/- per month from the 2nd respondent for her and her child, return of 25 sovereigns of gold ornaments taken away from her by the 2nd respondent or its value and an amount of ₹

50,000/- obtained by the 2nd respondent from the parents of the 1st respondent, at the time of marriage. Over and above it, she has sought for a relief of damages of ₹ 5 lakhs.

5. According to the petitioners, they are not in any way involved in committing any domestic violence towards the 1st respondent and therefore, they are not proper or necessary parties to the proceedings. Therefore, they have come up with the prayer under Section 482 Cr.P.C to get the proceedings against them quashed.

6. Heard the learned counsel for the petitioner.

7. On going through the proceedings, it cannot be said that the petitioners are not proper or necessary parties to the proceedings. When there is specific allegation to the effect that the marriage of the 1st petitioner with the 2nd respondent was conducted through

the Special Marriage Act with a view to defrauding and cheating the 1st respondent, the petitioners are also necessary parties to the proceedings. It seems that all the main reliefs are sought for by the 1st respondent, as against the 2nd respondent. It is true that a relief of damages has also been sought for in the matter. It may, even though it has not been stated in the relief as against whom that relief has been sought for, be inferred that, that may be from all the respondents in the MC proceedings. In such case, petitioners have to contest the proceedings. It cannot be said that they are not necessary parties to the proceedings. When the 1st petitioner has entered in a marriage arrangement with the 2nd respondent especially when she had the knowledge that there was only an ex parte decree procured by the 2nd respondent, she should have been more vigilant. It seems that the 1st respondent has got genuine grievance as

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against the 2nd respondent. It is not just and proper in the interest of justice to quash the proceedings. This is not a fit case where the proceedings can be quashed. Matters being so, I am of the view that this Crl.M.C is not maintainable and is only to be dismissed.

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

Sd/-
B. KEMAL PASHA
JUDGE

das

// True copy //

PA to Judge