

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 21ST DAY OF JANUARY 2015/1ST MAGHA, 1936

Crl.MC.No. 6851 of 2014 ()

CC.NO. 1410/2014 OF JUDICIAL FIRST CLASS MAGISTRATE COURT -II, KANNUR
CRIME NO. 725/2014 OF VALAPPATANAM POLICE STATION , KANNUR DISTRICT

PETITIONERS/ACCUSED:

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- 1. M.P.SAMEER,
S/O MUSTHAFA, SAMEER VILLA,
P.O.KATTAMPALLI, KANNUR DISTRICT.**
 - 2. SULAIKHA BEEVI,
W/O MUSTHAFA, SAMEER VILLA,
P.O.KATTAMPALLI, KANNUR DISTRICT.**
 - 3. M.P.LAILA,
D/O MUSTHAFA, SAMEER VILLA,
P.O.KATTAMPALLI, KANNUR DISTRICT.**
 - 4. M.P.PANAS,
S/O MUSTHAFA, SAMEER VILLA,
P.O.KATTAMPALLI, KANNUR DISTRICT.**

BY ADV. SRI.P.U.SHAILAJAN

RESPONDENTS/DE-FACTO COMPLAINANT AND STATE:

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- 1. MARIYAMBI T.K.,D/O HAMZA, AGED 30 YEARS,
MARIYAMBI MANZIL, IRINAVU POST,
MADAKKARA, KANNUR DISTRICT-670 301.**
 - 2. STATE OF KERALA,
THROUGH STATION HOUSE OFFICER,
VALAPATTANAM POLICE STATION, KANNUR DISTRICT,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**

R1 BY ADV. SMT.D.N.NISHANI

R2 BY PUBLIC PROSECUTOR SRI.JIBU P. THOMAS

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 21-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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Crl.MC.No. 6851 of 2014 ()

APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEX I: ACCUSED COPY OF THE CHARGE SHEET IN C.C.1410/2013 PENDING
BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT-II,
KANNUR.**

ANNEX II: AFFIDAVIT SWEARED BY THE IST RESPONDENT.

**ANNEX III: TRUE COPY OF THE AGREEMENT DATED 22.11.2014 BETWEEN THE
IST PETITIONER AND THE IST RESPONDENT.**

RESPONDENT(S)' ANNEXURES:

NIL

B.KEMAL PASHA, J.

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CRL.M.C. No.6851 of 2014

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Dated this the 21st day of January, 2015

ORDER

Petitioners are accused in Crime No.725 of 2014 of the Valapattanam Police Station registered for the offences punishable under Section 498A read with Section 34 of the Indian Penal Code.

2. Petitioners have come up with this Crl.M.C. under Section 482 Cr.P.C. for getting Annexure-1 First Information Report and all further proceedings based on it in C.C.1410 of 2014 pending before the Judicial First Class Magistrate's Court-II, Kannur, quashed.

3. The allegation against the petitioners is that they have tortured and harassed the defacto complainant, who is the wife of the 1st petitioner, and treated her with cruelty

within the meaning of Section 498A IPC, by demanding more dowry.

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

5. According to the petitioners, all the matters in dispute between the petitioners and the defacto complainant have been amicably settled and presently the defacto complainant has no complaints against the petitioners and, therefore, the proceedings against the petitioners may be quashed.

6. The defacto complainant, who is the 1st respondent herein, has filed an affidavit affirming that all the matters in dispute between her and the petitioners have been amicably settled and, therefore, she has no complaints against the petitioners, and, hence, all further proceedings in the matter referred to above can be quashed. She has entered appearance through her counsel. The learned

counsel for the defacto complainant also endorses the fact that the affidavit has been sworn in by the defacto complainant on her own volition.

7. A copy of the agreement, by which the matter has been settled between the parties has been produced as Annexure-III. In Clause No.4 of Annexure-III, it has been stated that the minor child of the 1st respondent and the 1st petitioner is not entitled to claim any maintenance. The said condition incorporated in the agreement is totally illegal. The child is entitled to get maintenance. As the 1st respondent is maintaining the child, she can claim maintenance for the child till it's attaining the age of majority and the 1st petitioner is duty bound to see that proper maintenance is paid to the child. The said condition restraining the maintenance to the child in Annexure-III is illegal and is set aside.

8. When all the matrimonial disputes have been settled between the parties and as the defacto complainant has no

complaints against the petitioners, it is only just and expedient in the interest of justice to quash the proceedings referred to above.

In the result, this Crl.M.C. is allowed and Annexure-I First Information Report and all further proceedings based on it in C.C.1410 of 2014 pending before the Judicial First Class Magistrate's Court-II, Kannur, are hereby quashed. It is made clear that the child of the 1st petitioner and the 1st respondent herein, shall be entitled to maintenance from the 1st petitioner.

Sd/-
B. KEMAL PASHA
JUDGE

DSV/22/1/15

// True Copy //

P.A. To Judge