

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

MONDAY, THE 16TH DAY OF NOVEMBER 2015/25TH KARTHIKA, 1937

Crl.Rev.Pet.No. 2879 of 2010 ()

(AGAINST THE ORDER IN CMP3481/2009 IN CC 290/2007 of J.M.F.C.,PALA)

REVISION PETITIONER(S)/PETITIONERS 2 TO 4/ACCUSED 2 TO 4:

1. LISSY KURIAN, W/O.BABY KURIAN,
VARKYPARAMBIL VEEDU, PATHI BHAGOM, ARANGU KARA
NADUVIL VILLAGE, TALIPARAMBA TALUK, KANNUR DISTRICT.
2. SINOJ BABY, S/O.BABY KURIAN,
VARKYPARAMBIL VEEDU, PATHI BHAGOM, ARANGU KARA
NADUVIL VILLAGE, TALIPARAMBA TALUK, KANNUR DISTRICT.
3. BABY KURIAN, S/O.KURIAN,
VARKYPARAMBIL VEEDU, PATHI BHAGOM, ARANGU KARA
NADUVIL VILLAGE, TALIPARAMBA TALUK, KANNUR DISTRICT.

BY ADVS.SRI.C.P.PEETHAMBARAN
SMT.LISHA.M.G.

RESPONDENT(S)/STATE AND DEFACTO COMPLAINANT:

1. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.
2. JAINY JOSE @ ROSAMMA, D/O.N.D.JOSEPH,
NIRAPPATHU HOUSE, AMANAKARA KARA P.O., 680 702
RAMAPURAM VILLAGE, MEENACHIL TALUK, KOTTAYAM DISTRICT.

R1 BY PUBLIC PROSECUTOR, SHRI.V.S.SREEJITH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON
16-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P.No.2879 of 2010

Dated this the 16th day of November 2015

ORDER

The revision petitioners are accused Nos.2 to 4 in C.C. No.290 of 2007 on the files of the Court of the Judicial Magistrate of First Class, Pala. The offence alleged against the revision petitioners is the offence under Section 498-A read with Section 34 I.P.C.

2. The *de-facto complainant* filed a private complaint against the revision petitioners and the other accused alleging harassment by the revision petitioners and the other accused against the *de-facto complainant* demanding

more dowry. The revision petitioners are the mother, brother and the father of the first accused. The revision petitioners filed C.M.P. No.3481 of 2009 before the court below under Section 239 of the Code praying for discharge. The said petition was dismissed by the court below. Aggrieved by the said order, this revision petition has been filed.

3. The court below, after going through the police report, found that there are materials *prima facie* making out the offence under Section 498-A read with Section 34 I.P.C. against the revision petitioners and the other accused. I have gone through the statement of witnesses recorded by the Police. I have also gone through the complaint filed by the *de-facto complainant*. It is borne out from the

statement of witnesses recorded by the police that there are materials against the revision petitioner Nos.1 and 2 constituting the offence under Section 498A. However, no material is available before the court against the third petitioner and hence, it has to be held that the charge against the third revision petitioner is groundless. However, there are materials to *prima facie* make out an offence under Section 498A read with Section 34 I.P.C. against the other revision petitioners and hence, it cannot be said at this stage that the charge against them is groundless. For the said reason, the third revision petitioner is entitled to be discharged from the proceedings in the case.

In the result, this revision petition stands allowed in

part confirming the order passed by the court below as regards revision petitioner Nos.1 and 2 and setting aside the order passed by the court below as regards the third petitioner in C.M.P. No.3481 of 2009 and the third revision petitioner is discharged from the proceedings in C.C.No.290 of 2007 on the files of the court below. The court below shall be at liberty to proceed against the other accused, in accordance with law.

It has been submitted by the learned counsel for the revision petitioners that the revision petitioners are residing nearly 400 k.m. away from the court. Considering the facts and circumstances of the case, I am of the view that a direction can be issued to the learned Magistrate not to insist upon the personal appearance of the revision

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petitioners before the court, except on days when their presence is utmost necessary and accordingly, I order so.

Sd/-

**B.SUDHEENDRA KUMAR,
JUDGE**

dl/18.11.2015

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PA to Judge