

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

WEDNESDAY, THE 24TH DAY OF JUNE 2015/3RD ASHADHA, 1937

OP(Crl.).No. 97 of 2015 (Q)

**C.C.NO.875/2006 OF JUDICIAL FIRST CLASS MAGISTRATE COURT,
MALAPPURAM**

PETITIONER(S) :

**EASWARI, AGED 74 YEARS,
W/O.KARTHIKEYAN, CHULLIPARAMBIL HOUSE,
VADAKKUMMURI P.O., THRISSUR DISTRICT.**

**BY SRI.RENJITH THAMPAN (SENIOR ADVOCATE)
ADV. SMT.P.R.REENA**

RESPONDENT(S):

**1. SUB INSPECTOR OF POLICE,
TIRUR POLICE STATION, MALAPPURAM, PIN-676 109.**

**2. DEPUTY SUPERINTENDENT OF POLICE,
TIRUR, MALAPPURAM, PIN-676 109.**

**3. PREMKUMAR, S/O.KESAVAN,
VAKAYIL HOUSE, CHATHAKKUDAM, VALLACHIRA,
THRISSUR- 680 562.**

**R1 & R2 BY GOVERNMENT PLEADER SRI.DHANESH MATHEW MANJOORAN
R3 BY ADV. SRI.JAMSHEED HAFIZ**

**THIS OP (CRIMINAL) HAVING BEEN FINALLY HEARD
ON 24-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1:** TRUE COPY OF THE RELEVANT PAGE OF THE FIR
DATED 25-10-2005 OF TIRUR POLICE STATION IN CRIME AS
CR.NO.380/2005.
- EXT.P2:** TRUE COPY OF THE LETTER DATED NIL ISSUED BY THE DEPUTY
SUPERINTENDENT OF POLICE (ADMINISTRATION).
- EXT.P2(A):** TRUE COPY OF THE LETTER OF THE CRIME DETACHMENT DY.S.P.
VANITHA CELL THRISSUR.
- EXT.P3:** TRUE COPY OF THE APPLICATION FILED BY THE PETITIONER
BEFORE THE INFORMATION OFFICER, VANITHA CELL THRISSUR.
- EXT.P4:** TRUE COPY OF THE LETTER DATED 18-11-2010 ISSUED BY
THE DEPUTY SUPERINTENDENT OF POLICE, ADMINISTRATION.
- EXT.P4(A):** TRUE COPY OF THE LETTER OF THE POLICE CIRCLE INSPECTOR
OF VANITHA CELL.
- EXT.P5:** TRUE COPY OF THE COMPLAINT DATED 13-12-2010 FILED BY
THE PETITIONER BEFORE THE DIRECTOR GENERAL OF POLICE
AND SUPERINTENDENT OF POLICE.
- EXT.P6:** TRUE COPY OF THE COMPLAINT DATED 13-12-2010 FILED BY
THE PETITIONER BEFORE THE SUPERINTENDENT OF POLICE.
- EXT.P7:** TRUE COPY OF THE JUDGMENT IN W.P(C).NO.469/2011
DATED 09-07-2013.

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

K. ABRAHAM MATHEW, J.

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O.P. (CrI.)No. 97 of 2015

Dated this the 24th day of June, 2015

J U D G M E N T

This case arises from C.C. No. 875 on the file of the Judicial First Class Magistrate, Malappuram._ The third respondent is the accused. He is charged with having committed the offence under Section 498A IPC. The allegation is that he subjected his wife to cruelty. But, the wife is no more. In W.P.(C) No. 469/2011 filed by the petitioner in this proceedings, who is the mother of the deceased wife of the third respondent this Court made the following direction.

- i. Investigating Officer in C.C. 875 of 2006 pending before the Judicial First Class Magistrate Court, Malappuram shall make arrangements for adducing secondary evidence in respect of the documents in question by examining appropriate witnesses as may be decided by the Investigating Officer in consultation with the Public Prosecutor.*
- ii. The case (C.C. 875 of 2006) shall be disposed of by the learned Magistrate as early as possible.*
- iii. Registry shall forward a copy of this judgment to the Public Prosecutor, Judicial First Class Magistrate Court, Malappuram.*

2. Thereafter, one witness was examined in accordance with the above direction. The petitioner now submits that the witness who was examined was not the person competent to prove the fact sought to be proved by the prosecution. This appears to be correct. It is necessary to know the identity of the persons competent to prove the fact. For this, records are available in the office of the Vanitha Cell, Thrissur. The learned Magistrate shall take steps under Section 311 Cr.P.C. to ensure that proper evidence is adduced. For that purpose, he may issue directions to the S.H.O. concerned to furnish the particulars of the persons concerned.

In the result, this O.P.(Crl.) is disposed of with a direction to the learned Magistrate to invoke Section 311 Cr.P.C. to ensure that persons who are competent to depose to the facts sought to be proved are examined as witnesses.

Sd/-
K. ABRAHAM MATHEW,
JUDGE

DST

//True copy//

P.A. To Judge