

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 30TH DAY OF SEPTEMBER 2015/8TH ASWINA, 1937

Tr. P(Crl.).No. 79 of 2015

M.C.NO. 2/2013 OF CHIEF JUDICIAL MAGISTRATE COURT, KOLLAM

PETITIONER(S)/RESPONDENT:

1. NADIRSHA A.M.,
S/O. ABDUL MAJEED,
RESIDING AT IMAM MANZIL, PALACHIRA.P.O.,
VARKALA, TRIVANDRUM.
2. RABEELA, AGED 62 YEARS,
W/O. ABDUL MAJEED,
RESIDING AT IMAM MANZIL, PALACHIRA. P.O.,
VARKALA, TRIVANDRUM.

BY ADV. SRI. C.K.SREEJITH

RESPONDENT(S)/ PETITIONER:

1. SMT. SABEENA, AGED 31 YEARS,
D/O. MUHAMMED KUNJU, RESIDING AT FABIYA,
HOUSE NO. 40, KADAPPAKADA NAGAR,
KOLLAM TALUK - 691 008.
2. STATE OF KERALA,
REPRESENTED BY ITS PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.

BY PUBLIC PROSECUTOR SMT. SHEEBA M.T.

**THIS TRANSFER PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION
ON 30-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

P. UBAID, J.

Transfer Petition (Crl) No.79 of 2015

Dated this the 30th day of September, 2015

O R D E R

The petitioners herein are the respondents in M.C.No.2/2013 of the Chief Judicial Magistrate Court, Kollam, which is a proceeding brought by the 1st respondent herein under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (for short, 'the D.V.Act'). Pending the said proceeding, the 1st petitioner herein filed a complaint against the 1st respondent herein and some of her relatives, before the Judicial First Class Magistrate Court-I, Varkala. After necessary enquiry, the learned Magistrate took cognizance on the said complaint under Sections 406, 415, 418, 420 and 326 IPC read with 34 IPC. That case is now pending as C.C.No.944/2013 before the Judicial First Class Magistrate Court-I, Varkala. The petitioners now seek orders transferring M.C.No.2/2013 from the Chief Judicial Magistrate Court, Kollam to the Judicial First Class Magistrate Court-I, Varkala for joint trial with C.C.No.944/2013. It is not known how such a procedure is possible. One is a proceeding brought under the D.V. Act involving enquiry, and the other is a regular criminal procedure governed by the Code of Criminal

Procedure. A proceeding brought under the D.V.Act cannot be tried jointly with a criminal case involving a different procedure for trial of offences. When one proceeding involves trial under the Code of Criminal Procedure, the other involves only an enquiry under the D.V.Act. There is no question of the two proceedings being tried jointly. I restrain myself from making comments on this petition.

In the result, this Transfer Petition is dismissed in limine without being admitted to files.

Sd/-

P. UBAID, JUDGE

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