

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

Tr.P(Cr1.).No. 61 of 2014

IN M.C NO.213/2013 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-
I, KOZHIKODE

PETITIONER/1ST RESPONDENT:

SAHEER @ SAHIR RAHIMAN, AGED 35 YEARS,
S/O.ABDUL RAHIMAN, MANAMKURICHI VEETIL, PANAVALLY P.O.
CHERTHALA, ALAPPUZHA DISTRICT.

BY ADVS.SRI.M.R.ARUNKUMAR
SRI.P.SHAMMI NAVAS

RESPONDENTS/PETITIONER & RESPONDENTS 2 TO 10:

1. NUBLA, AGED 26 YEARS
D/O.LATHEEF, KAATIL PARAMBATH HOUSE, P.O.PARAMBIL,
CHERUVATTA, KOZHIKODE - 673 012.
2. NABEESA, W/O.ABDUL RAHIMAN,
MANAMKURICHI VEETIL, PANAVALLY P.O., CHERTHALA,
ALAPPUZHA DISTRICT - 688 566.
3. SUHARA, W/O.HAMEED,
MANAMKURICHI VEETIL, PANAVALLY P.O., CHERTHALA
ALAPPUZHA DISTRICT - 688 566.
4. SAFIYA,
W/O.HASHIM, MANAMKURICHI VEETIL, PANAVALLY P.O.
CHERTHALA, ALAPPUZHA DISTRICT -688 566.
5. NISA,
W/O.SHAJI, MANAMKURICHI VEETIL, PANAVALLY P.O.
CHERTHALA, ALAPPUZHA DISTRICT - 688 566.
6. SAJITHA,
W/O.NISHAD, MANAMKURICHI VEETIL, PANAVALLY P.O.
CHERTHALA, ALAPPUZHA DISTRICT - 688 566.
7. SUBINA,
W/O.MUNVEER, MANAMKURICHI VEETIL, PANAVALLY P.O.
CHERTHALA, ALAPPUZHA DISTRICT - 688 566.

8. HAMEED,
S/O.SAYED MUHAMMED, MANAMKURICHI VEETIL,
PANAVALLY P.O., CHERTHALA, ALAPPUZHA DISTRICT- 688 566.
9. HASHIM,
MANAMKURICHI VEETIL, PANAVALLY P.O., CHERTHALA
ALAPPUZHA DISTRICT - 688 566.
10. SHAJI,
MANAMKURICHI VEETIL, PANAVALLY P.O., CHERTHALA
ALAPPUZHA DISTRICT - 688 566.
11. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM - 682 031.

R2-R10 BY ADV. SMT.BHAVANA VELAYUDHAN
R11 BY PUBLIC PROSECUTOR SMT.P.MAYA

THIS TRANSFER PETITION (CRIMINAL) HAVING COME UP FOR
ADMISSION ON 31-03-2015, ALONG WITH TR.P(CRL) NO.60/2014 THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A1: COPY OF THE PETITION IN M.C NO.213/2013 ON THE FILE OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT I, KOZHIKODE DATED 20.11.2013.

ANNEXURE A2: COPY OF THE OBJECTION FILED BY THE RESPONDENTS IN M.C NO.213/2013 BEFORE THE FAMILY COURT, KOZHIKODE DTD.20.2.2014

ANNEXURE A3: COPY OF THE ORDER IN TR.P(CRL) NO.277/2014 DTD.14.7.2014

ANNEXURE A4: COPY OF THE DISCHARGE CARD ALONG WITH HISTORY OF TREATMENT ISSUED BY THE MEDICAL COLLEGE, KOTTAYAM DATED.14.1.2008

ANNEXURE A5: COPY OF THE OUTPATIENT REGISTRATION CARD ISSUED BY THE GENERAL HOSPITAL, ERNAKULAM DATED 4.5.2011

ANNEXURE A6: COPY OF THE DISCHARGE SUMMARY ISSUED BY THE LOURDES HOSPITAL, ERNAKULAM DATED 18.7.2011

ANNEXURE A7: COPY OF THE MEDICAL CERTIFICATE ISSUED FROM THE MEDICAL COLLEGE HOSPITAL, KOTTAYAM DATED 1.11.2013

ANNEXURE A8: COPY OF THE COAGULATION WORK UP REPORT ISSUED BY THE CHRISTIAN MEDICAL COLLEGE, VELLORE DATED 7.11.2013.

ANNEXURE A9: COPY OF THE CERTIFICATE ISSUED BY THE REGIONAL BLOOD TRANSFUSION CENTRE, DISTRICT HOSPITAL, ALUVA DTD.26.3.2014.

ANNEXURE A10: COPY OF THE CERTIFICATE ISSUED BY THE DISTRICT HOSPITAL, ALUVA DATED 20.5.2014

ANNEXURE A11: COPY OF THE TREATMENT DETAILS ISSUED BY THE DISTRICT HOSPITAL, ALUVA DATED 13.5.2014

ANNEXURE A12: COPY OF THE UTILISATION CERTIFICATE ISSUED FROM THE DISTRICT HOSPITAL, ALUVA DATED 17.6.2014

ANNEXURE A13: COPY OF THE DISCHARGE CERTIFICATE ISSUED BY THE DISTRICT HOSPITAL, ALUVA DATED 17.6.2014

ANNEXURE A14: COPY OF THE COMPLAINT C.M.P NO.293/2014 IN MC NO.283/2013 FILED BY THE PETITIONER BEFORE THE FAMILY COURT, KOZHIKODE DATED 22.7.2014.

RESPONDENT'S ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

P.UBAID, J.

Tr.P(Crl.) Nos.60 & 61 of 2014

Dated this the 31st day of March, 2015

O R D E R

Petitioner is the same in these two applications for transfer. He is the respondent in the two proceedings brought by his wife in two different courts. The first respondent in these proceedings is his wife. There are so many disputes and litigations between the parties. It appears that the matrimony stands irretrievably strained. This lead to different cases between the parties. A maintenance claim brought by the first respondent under Section 125 of the Code of Criminal Procedure is now pending before the Family Court, Kozhikode, as M.C No.283/2013. Another complaint brought by her under Section 12 of the Protection of Women From Domestic Violence Act (for short 'the PWDV Act') is now pending before the Judicial First Class Magistrate Court I, Kozhikode as M.C No.213/2013. The petitioner seeks transfer of these two cases to Thrissur where the other cases between the parties are now pending. O.P Nos.33/2014 and 251/2014 brought by the husband before the Family Court, Alappuzha now stand transferred to the Family

Court, Thrissur by this Court on application for transfer made by the petitioner. O.P No.426/2014 brought by the wife before the Family Court, Kozhikode for return of ornaments also stands transferred to the Family Court, Thrissur. Another original petition for divorce filed by the wife also stands transferred to the Family Court, Thrissur. Thus four other cases are pending before the Family Court, Thrissur.

2. On hearing both sides, I find that the petitioner's request is quite genuine. It appears that the first respondent has arraigned all the inmates of the matrimonial home as respondents in the PWDV Act proceedings. It is submitted that she has already initiated prosecution under Section 498A IPC also, against her husband and the in-laws. Two such proceedings are now pending. It is not known how two prosecutions happened to be brought under Section 498A of the Indian Penal Code. Anyway, let her explain such things in due course. It is only just and proper that the proceedings now at Kozhikode also be brought to the Court at Thirssur. This will definitely be convenient to both the parties. Though the wife objects the request for transfer, I find that she cannot practically have any objection because even otherwise she will have to come

to the court at Thrissur in connection with the other matters which now stand transferred to the Family Court, Thrissur.

In the result, these Transfer Petitions are allowed. M.C No.283/2013 of the Family Court, Kozhikode will stand transferred to the Family Court, Thrissur. The learned Judge Family Court, Kozhikode will transmit the case records without any delay to the Family Court at Thrissur. M.C No.213/2013 of the Judicial First Class Magistrate Court I, Kozhikode will stand transferred to the Chief Judicial Magistrate Court, Thrissur. The learned Judicial First Class Magistrate I, Kozhikode will transmit the case records immediately to the Chief Judicial Magistrate Court, Thrissur. Notice for appearance to the parties shall be issued from the respective courts.

**P.UBAID
JUDGE**

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