

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.UBAID

TUESDAY, THE 17TH DAY OF MARCH 2015/26TH PHALGUNA, 1936

Tr.P(Crl.).No.70 of 2014

**(CMP NO.*1267/2014 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-I,
KOLLAM).**

***LOWER COURT CASE NO. IS CORRECTED AS CMP NO.1266/2014 AS PER
ORDER DATED 24.2.2015 IN CRL.MA NO.1277/2015 IN TRP(CRL.)70/2014.
CRIME NO.243/2014 OF VANCHIYOOR POLICE STATION.**

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PETITIONERS/COUNTER PETITIONERS:

1. **ANIL.S,AGED 34 YEARS,S/O.LATE SUKUMARAN NAIR,
T.C.25/3433,LEELATHA NIVAS,UPPALAM ROAD,VANCHIYOOR
THIRUVANANTHAPURAM,(MENTALLY RETARDED).**

**REPRESENTED BY HIS MOTHER AND GUARDIAN
LETHA.G,AGED 62 YEARS,D/O.GOMATHY AMMA AND
W/O.LATE SUKUMARAN NAIR,T.C.25/3433,
LEELATHA NIVAS,UPPALAM ROAD,
VANCHIYOOR,THIRUVANANTHAPURAM.**

2. **LETHA.G,AGED 62 YEARS,D/O.GOMATHY AMMA AND
W/O.LATE SUKUMARAN NAIR,T.C.25/3433,
LEELATHA NIVAS,UPPALAM ROAD,
VANCHIYOOR,THIRUVANANTHAPURAM.**

3. **NARENDRA NATHAN NAIR,AGED 68 YEARS,
S/O.KESAVA PILLAI,T.C.25/3433,LEELATHA NIVAS,
UPPALAM ROAD,VANCHIYOOR,THIRUVANANTHAPURAM.**

**BY ADVS.SRI.BIJU BALAKRISHNAN
SMT.V.S.RAKHEE
SMT.PRINCY XAVIER**

RESPONDENTS/COMPLAINANT:

1. **STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,ERNAKULAM.**

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2. **DHANYA,AGED 26 YEARS,D/O.VASANTHA KUMARI,
PALLICHAL VILLAGE,PULIYILANORTH WARD,
MELOOTTU VADAKKATHIL,NALLILA P.O.
KOLLAM DISTRICT, REPRESENTED BY HER MOTHER AND
NATURAL GUARDIAN SMT.VASANTHA KUMARI,PIN - 691 515.**

R1 BY PUBLIC PROSECUTOR SMT.S.HYMA.

**THIS TRANSFER PETITION (CRIMINAL) HAVING COME UP FOR
ADMISSION ON 17-03-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

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APPENDIX

PETITIONER'S ANNEXURES:

**ANNEXURE 1:PHOTOSTAT COPY OF CMP NO.1267/2014 PENDING BEFORE
JUDICIAL FIRST CLASS MAGISTRATE COURT-I,KOLLAM.**

**ANNEXURE 2:PHOTOSTAT COPY OF FIR IN CRIME NO.243/2014 OF VANCHIYOOR
POLICE STATION,PENDING BEFORE ADDL.CHIEF JUDICIAL
MAGISTRATE COURT,THIRUVANANTHAPURAM.**

**ANNEXURE 3:PHOTOSTAT COPY OF THE PSYCHOLOGICAL EVALUATION
REPORT OF THE 1ST PETITIONER AND 1ST RESPONDENT ISSUED
BY SRI.A.SREELAL,CONSULTANT CLINICAL PSYCHOLOGIST
DATED 25.1.2014.**

**ANNEXURE 4:PHOTOSTAT COPY OF THE EVALUATION AND COUNSELING
REPORT OF THE 1ST PETITIONER AND 1ST RESPONDENT ISSUED
BY THE INSTITUTE FOR COMMUNICATIVE AND COGNITIVE
NEUROSCIENCES (CCONS) DATED 2.4.2014.**

**ANNEXURE 5:PHOTOSTAT COPY OF THE MENTAL FITNESS REPORT
DATED 12.5.2014 OF THE 1ST PETITIONER GIVEN FROM THE
GENERAL HOSPITAL,THIRUVANANTHAPURAM, AS DIRECTED BY
THE FAMILY COURT,THIRUVANANTHAPURAM.**

RESPONDENT'S ANNEXURES: NIL

//TRUE COPY//

P.S. TO JUDGE

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P.UBAID, J.
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**Tr.P (Crl) No.70 of 2014**  
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Dated this the 17th March 2015

ORDER

The petitioners herein are the respondents in C.M.P. No.1266 of 2014 of the Judicial First Class Magistrate Court-I, Kollam, which is a proceeding brought under Section 12 of the Protection of Women from Domestic Violence Act (for short 'D.V.Act'). The 2nd respondent herein is the wife of the 1st petitioner. Their matrimony stands strained. A prosecution initiated by the wife against the husband and the in-laws under Section 498A I.P.C is now pending before the Additional Chief Judicial Magistrate's Court, Thiruvananthapuram. The petitioners seek transfer of the D.V. Act proceeding from Kollam to Thiruvananthapuram on the ground that other proceedings between the parties are also pending in the Courts at Thiruvananthapuram. The 2nd respondent did not turn up to contest the matter in spite of notice and it appears that she has no objection in transferring the proceeding from Kollam to Thiruvananthapuram. It is submitted that a petition filed by the husband for divorce is also now pending in the

Family Court at Thiruvananthapuram. I am well satisfied that transfer of the proceeding from Kollam to Thiruvananthapuram in the above circumstances will not cause any prejudice or hardship to the 2nd respondent. That is why she is probably absent in the proceeding. Anyway, in the present circumstance where other proceedings are now being considered by the Courts at Thiruvananthapuram, the D.V. Act proceeding also can be transferred from Kollam to Thiruvananthapuram. This will definitely be convenient to all the parties.

In the result, this petition is allowed. C.M.P. No.1266 of 2014 of the Judicial First Class Magistrate Court-I, Kollam will stand transferred to the Additional Chief Judicial Magistrate's Court, Thiruvananthapuram. The learned Judicial First Class Magistrate-I, Kollam will transmit the records of the case, without delay, to the other court, from where notice for appearance shall be given to both the parties.

**Sd/-
P.UBAID
JUDGE**

ma /True copy/

P.S to Judge