

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 10TH DAY OF FEBRUARY 2015/21ST MAGHA, 1936

Tr.P(CrI.).No. 86 of 2014 ()

O.P.72/13 AND O.P.73/13 OF FAMILY COURT, PALA

PETITIONER(S) :

SHOBHANA E.K., AGED 36 YEARS
D/O.V.P.KUTTAPPAN, EDATHUMPARAMBIL HOUSE
MANIMALA VILLAGE, KARIKKATTOOR KARA, MUKKADA P.O.
KOTTAYAM DISTRICT.

BY ADVS.SRI.RAJAGOPAL PADIPPURACKAL
SRI.SINU.G.NATH

RESPONDENT(S) :

1. STATE OF KERALA
REPRESENTED BY THE SUB INSPECTOR OF POLICE
MAVOOR POLICE STATION, MAVOOR, KOZHIKODE DISTRICT
PIN 673661.

2. BINU.P, AGED 39 YEARS
S/O.P.D.THANKKAPPAN, PULPARAMBIL HOUSE, MAVOOR KARA
MAVOOR P.O., KOZHIKODE DISTRICT-673661.

3. P.D.THANKKAPPAN, AGED 65 YEARS
PULPARAMBIL HOUSE, MAVOOR VILLAGE, MAVOOR KARA
MAVOOR P.O., KOZHIKODE DISTRICT, 673661.

4. SANTHAMMA, AGED 62 YEARS
W/O.P.D.THANKKAPPAN, PULPARAMBIL HOUSE, MAVOOR VILLAGE
MAVOOR KARA MAVOOR P.O., KOZHIKODE DISTRICT, 673661.

R2-R4 BY ADV. SRI.K.M.FIROZ
R2-R4 BY ADV. SMT.M.SHAJNA
R2-R4 BY ADV. SRI.S.KANNAN
BY PUBLIC PROSECUTOR SMT. S. HYMA

THIS TRANSFER PETITION (CRIMINAL) HAVING COME UP FOR
ADMISSION ON 10-02-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

Tr.P(Crl.).No. 86 of 2014

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE 1 : OFFICE COPY OF THE COMPLAINT IN CMP 2424/2011 ON THE FILE OF JUDICIAL FIRST CLASS MAGISTRATE COURT II, KANJIRAPPALLY

ANNEXURE II : COPY OF THE COMMON JURDMENT IN OP NO.72/2013 AND O.P. NO.73/2013 ON THE FILE OF FAMILY COURT, PALA

ANNEXURE III: PROCLAMATION ISSUED AGAINST THE PETITIOENR ISSUED BY JFMC, KUNNAMANGALAM.

ANNEXUE IV : PROCLAMATION ISSUED AGAINST CW2 ISSUED BY JFMC, KUNNAMANGALAM.

ANNEXURE V: PROCLAMATION ISSUED AGAISNT CW2 ISSUED BY JFMC, KUNNAMANGALAM

RESPONDENTS' ANNEXURES : NIL

//TRUE COPY//

P.A. TO JUDGE

smv

P. UBAID,J.

Tr.P(Crl) No.86 of 2014

Dated this the 10th day of February, 2015

JUDGMENT

The petitioner herein is the de-facto complainant in C.C. No.642 of 2011 of the Judicial First Class Magistrate Court, Kunnamangalam. She now seeks transfer of the case to the Judicial First Class Magistrate Court - II, Kanirappally on two grounds. One is that she and her parents will have to travel all the way from Manimala to Kunnamangalam. The other ground is that, she apprehends assault by her husband, if she comes to Kunnamangalam. On hearing on both sides, I find that the transfer petition does not contain any satisfactory ground for transfer. Petitioner's concern is about her aged parents. She forgets that there are aged parents-in-laws on the other side. If transfer is allowed as requested, the accused including petitioner's parents-in-law and also the witnesses will have to travel all the way from Kunnamangalam to Kanjirappally. I find that the case cannot be transferred to suit the convenience of the petitioner. She and her parents will have to attend the court at

Kunnamangalam and give evidence. There is report by the learned Judicial First Class Magistrate, Kunnamanglam that in spite of summons and coercive steps, the petitioner herein and her parents did not appear in court to give evidence. The request of such a person for transfer of the case for her convenience cannot be entertained. Of course in view of the apprehension of assault by her husband, the trial court can be directed to take necessary steps if such a complaint is made. If the petitioner apprehends such assault, she can very well complain to the learned Magistrate. No doubt it will appropriately be dealt with and necessary order will be passed by the learned Magistrate. Transfer as requested cannot be ordered by this Court on the ground alleged.

In the result, the transfer petition is dismissed. However the trial court is directed that in case complaint of assault is made by the petitioner, the same shall be seriously dealt with and appropriate steps and measures shall be taken on such complaint.

Sd/-
P. UBAID, JUDGE

//true copy//

P.A. To Judge