

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 4TH DAY OF AUGUST 2015/13TH SRAVANA, 1937

WP(C).No. 5584 of 2015 (W)

WRIT PETITIONER :-

**KUTTAN, AGED 53 YEARS,
S/O.SANKU, VALIYAPARAMBIL HOUSE,
KARAMUKKU VILLAGE,
KANDASSAMKADAVU DESAM,
THRISSUR TALUK AND DISTRICT.**

BY ADV. SMT.R.PADMAKUMARI

RESPONDENT(S) :-

- 1. STATE OF KERALA,
REPRESENTED BY ITS PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. DEPUTY SUPERINTENDENT OF POLICE,
THRISSUR - 680 001.**
- 3. SUB INSPECTOR OF POLICE,
VIYYOOR POLICE STATION, VIYYOOR,
THRISSUR - 680 001.**

**Addl.R4. THE ASSISTANT COMMISSIONER OF POLICE,
GURUVAYOOR.**

ADDL.R4 IMPEADED AS PER ORDER DATED 06.03.2015 IN IA 3025/15.

R BY SMT.V.H.JASMINE, PUBLIC PROSECUTOR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 04-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

rkj

WP(C).No. 5584 of 2015 (W)

APPENDIX

PETITIONER(S)' EXHIBITS :-

**EXHIBIT P1 : THE TRUE COPY OF THE FIR IN CRIME NO.105/2007 OF VIYYUR
POLICE STATION.**

**EXHIBIT P2 : THE TRUE COPY OF THE CHARHE SHEET IN CRIME NO.105/2007 OF
VIYYUR POLICE STATION.**

**EXHIBIT P3 : THE TRUE COPY OF THE COMPLAINT DATED 27.2.2007 SUBMITTED
BEFORE THE HOME MINISTER, KERALA.**

**EXHIBIT P4 : THE TRUE COPY OF THE REPLY DATED 9.8.2007 ISSUED BY THE
ADDITIONAL CHIEF SECRETARY TO THE DEPARTMENT OF HOME.**

RESPONDENT(S)' EXHIBITS :- NIL

//TRUE COPY//

P.A. TO JUDGE

rkj

P.UBAID, J.

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W.P.(C)No.5584 of 2015

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Dated this the 4th day of August, 2015

JUDGMENT

The petitioner herein is the defacto complainant in S.C.No.436 of 2008, before the Additional Assistant Sessions Judge, Thrissur. The offences alleged in the final reported submitted by the police are under Sections 498A and 306 IPC. The petitioner now wants further investigation on the allegation that the offence under Section 304(B) IPC is revealed by the materials, and so the police should have submitted final report under Section 304(B) IPC, instead of Section 306 IPC. On hearing the learned counsel, and on a perusal of the original complaint that led to the crime, I find nothing definite to attract Section 304(B) IPC. Just because the deceased had been mentally or physically harassed within a period of seven years on a demand for dowry, prosecution cannot be brought under Section 304(B) IPC. For a prosecution under Section 304(B) IPC, there must be a definite case that soon before the death the deceased had been subjected to cruelty on a demand for more dowry, and ornaments. Such harassment soon before the death is the essential ingredient of Section 304(B) IPC. In this case, in the complaint made by the complainant, I do not find such allegations. I find that there is no scope in this case for a further investigation into the offence under Section 304(B) IPC. Abatement of Commission of suicide by acts of

cruelty including persistent demand for dowry and ornaments will even otherwise come under Section 306 IPC. To come under Section 304(B) IPC, something more is required. It appears that the petitioner seeks a direction for further investigation into the offence under Section 304(B) IPC simply on the ground that the death occurred within seven years. I find that this writ petition is meritless.

In the result, this writ petition is dismissed in limine, without being admitted to files.

Sd/-
P.UBAID
JUDGE

rkj

//TRUE COPY//

P.A. TO JUDGE