IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 22ND DAY OF DECEMBER 2020 / 1ST POUSHA, 1942

Crl.MC.No.4558 OF 2018

AGAINST THE ORDER/JUDGMENT IN CC 730/2012 OF JUDICIAL MAGISTRATE OF FIRST CLASS ,CHAVAKKAD

CRIME NO.51/2012 OF Guruvayoor Police Station , Thrissur

PETITIONER/S:

RAJESH VIJAYAN
S/O.DR.N.VIJAYAN,29/865, 'PRASANNA', INDIRA GANDHI ROAD,KOTTOOIL AMSOM, KOZHIKODE TALUK.

BY ADV. SRI.B.KRISHNA MANI

RESPONDENT/S:

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

2 **THE SUB INSPECTOR OF POLICE**
GURUVAYOOR POLICE STATION,GURUVAYOOR, THRISSUR - 681 101.

3 **MAMITHA RAJESH**
D/O.K.A.RAJENDRA BABU,KUNNATH AVEN HOUSE, GANDHI NAGAR,GURUVAYOOR DESOM, PADINJARE NADA,THRISSUR DISTRICT - 680 505.

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 22.12.2020, ALONG WITH Crl.MC.1247/2014, Crl.MC.3566/2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 22ND DAY OF DECEMBER 2020 / 1ST POUSHA, 1942

Crl.MC.No.1247 OF 2014

AGAINST THE ORDER/JUDGMENT IN CC 730/2012 OF JUDICIAL MAGISTRATE OF FIRST CLASS ,CHAVAKKAD

CRIME NO.51/2012 OF Guruvayoor Police Station , Thrissur

PETITIONER/S:

1 DR.N.VIJAYAN
AGED 84 YEARS
S/O ANRAYANAN, RESIDING AT PRASANNA, INDIRA GANDHI RAOD, KOTTOOLY, KOZHIKODE DISTRICT

2 RANI VENUGOPAL
AGED 51 YEARS
W/O DR. T.R. VENUGOPAL, THANDASSERY HOUSE, CHERUMUKKU, CHEMBUKKAVU VILLAGE, THRISSUR TALUK

BY ADVS.
SRI.GRASHIOUS KURIAKOSE (SR.)
SRI.GEORGE MATHEWS

RESPONDENT/S:

1 MAMITHA
D/O RAJENDRA BABU, KUNNATH AVEN HOUSE, GANDHINAGAR, PADINJARA NADA, GURUVAYOOR VILLAGE, CHAVAKKAD TALUK 680101

2 THE STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNALULAM 682013

R1 BY ADV. SRI.K.K.DHEERENDRAKRISHNAN
R1 BY ADV. SRI.S.RAJEEV
R1 BY ADV. SMT.P.A.SHEEJA
R1 BY ADV. SRI.N.K.UNNIKRISHNAN

OTHER PRESENT:

SRI.SANTHOSH PETER, PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 22.12.2020, ALONG WITH Crl.MC.3566/2014, Crl.MC.4558/2018, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

TUESDAY, THE 22ND DAY OF DECEMBER 2020 / 1ST POUSHA, 1942

Crl.MC.No.3566 OF 2014

AGAINST THE ORDER/JUDGMENT IN CC 730/2012 OF JUDICIAL MAGISTRATE OF FIRST CLASS ,CHAVAKKAD

CRIME NO.51/2012 OF Guruvayoor Police Station , Thrissur

PETITIONER/S:

DR.ROY VIJAYAN
AGED 47 YEARS
S/O.DR.N.VIJAYAN, 29/865, 'PRASANNA', INDIRA GANDHI ROAD,KOZHIKODE - 16

BY ADVS.
SRI.JAGAN GEORGE
SRI.P.JAYABAL MENON

RESPONDENT/S:

1 **MAMITHA**
AGED 36 YEARS
D/O.RAJENDRA BABU, RESIDING AT KUNNATH AVEN HOUSE, GANDHINAGAR, PANDINJARA NADA, GURUVAYOOR VILLAGE, CHAVAKKAD TALUK - 680 101

2 **STATE OF KERALA**
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM

R1 BY ADV. SRI.K.K.DHEERENDRAKRISHNAN
R1 BY ADV. SRI.S.RAJEEV

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 22.12.2020, ALONG WITH Crl.MC.1247/2014, Crl.MC.4558/2018, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ALEXANDER THOMAS, J.

= = = = = = = = = = = = = = = = = = =

Crl.M.C. Nos. 4558 of 2018, 3566 of 2014 & 1247 of 2014

- -

Dated this the 22nd day of December, 2020

O R D E R

The prayer in Crl.M.C. No.4588/2018 is as follows :

"....to quash Annexure-IV that is CC No.730/2012 before the Judicial First Class Magistrate Court, Chavakkad."

The prayer in Crl.M.C. No.3566/2014 is as follows :

"....to quash Annexure-A2 final report and all further proceedings thereto in CC No.730/2012 of the Judicial First Class Magistrate Court, Chavakkad Thrissur and allow this Criminal Miscellaneous case."

The prayer in Crl.M.C. No.1247/2014 is as follows :

"....to quash Annexure-A2 final report and all further proceedings thereto in CC No.730/2012 of the Judicial First Class Magistrate Court, Chavakkad Thrissur and allow this Criminal Miscellaneous case."

2. Heard Sri.B.Krishnamani, learned counsel appearing for the petitioner (A1 in Crl.M.C. No.4588/2018) and Sri. Jagan Abraham George, learned counsel appearing for the petitioner (A2 in Crl/M.C.No.3566/2014) Sri.Gracious Kuriakose, learned senior counsel instructed by Sri.George Mathew, learned counsel for the petitioners (A3 and A4 in Crl.M.C. No.1247/2014), Sri.N.K.Unnikrishnan, learned counsel appearing for the contesting lady defacto complainant in these cases, Sri.Santhosh Peter, learned Public Prosecutor appearing for the respondent State in the first petition and Sri.Saigi Jacob Palatty, learned Public Prosecutor appearing

for the respondent State in the other two cases.

3. The aforementioned petitioners herein in these cases have been arrayed as accused Nos. 1 to 4 respectively among the 4 accused in the instant impugned FIR in crime No.51/2012 of Guruvayoor Police Station, pursuant to the complaint/petition dated 14.1.2012 filed by the respondent lady defacto complainant before the Asst.Commissioner of Police concerned. The offences alleged in the said FIR are those punishable under Secs. 498A, 406 and 34 of the IPC. The police after investigation has filed the impugned final report/charge sheet in the said crime, which has now led to the pendency of calendar case, CC No.730/2012 on the file of the Judicial First Class Magistrate Court, Chavakkad. All the parties have been heard in detail.

4. The brief of the prosecution case is that the respondent lady defacto complainant had married A1 and thereafter, in the course of her marital life, she has been subjected to extreme cruelty and harassment by all the accused persons concerned and that they have also done various acts of misappropriation and cheating and that thereby the accused persons have committed the abovesaid offences.

5. A3 in this case (1st petitioner in Crl.M.C. No.1247/2014) is the father of A1 and is now an elderly senior citizen aged more than 90 years. A4 (2nd petitioner in Crl.M.C. No.1247/2104) is the elder sister of A1 and she is now aged more than 56 years.

6. After hearing both sides, this Court suggested to the learned advocates appearing for all the accused persons concerned as well as the learned advocate appearing for the respondent –lady defacto complainant as to whether the parties are amenable for seeking mediatory settlement efforts as a last chance, taking into account the fact that A3, who is the father of A1 is now aged more than 90 years and also taking into account the various facts and circumstances of this case.

7. Sri.N.K.Unnikrishnan, learned advocate appearing for the respondent lady defacto complainant would submit that his party is certainly amenable for mediatory efforts, provided the accused persons are sincere and would seek mediatory efforts only for a bonafide purpose and not for the purpose of buying more time. The learned advocates appearing for the accused persons would submit that their parties are also amenable for mediatory efforts and that since, A3 is an elderly citizen aged more than 90 years and that as he is based at Kozhikode, the parties may be referred to the District Mediation Centre at Kozhikode, if the same is not objected to by the respondent-lady defacto complainant, who is now residing at Guruvayoor, Thrissur district.

8. Sri.N.K.Unnikrishnan, learned advocate appearing for the respondent-lady defacto complainant would submit that taking into account the elderly age of A3, his party is prepared to face the inconvenience and hardships of having to attend the mediatory

proceedings at Kozhikode, if this Court so directs. Moreover, after hearing the parties, it is seen that if the mediation proceedings are held at the District Mediation Centre, Thrissur, so as to take into account the fact that the respondent-lady defacto complainant is residing at Thrissur District, it may not be possible for A3, who is an elderly citizen to attend the mediatory proceedings and he may have to be represented by the authorised representative. This Court suggests to both sides that the presence of A3 in the mediatory settlement talks at least for some occasions so as to pave way for a direct meeting with the respondent-lady defacto complainant, who is his daughter-in-law may pave way for melting the ice and to resolve the issues in a reasonable and fair manner. The abovesaid suggestion made by this Court has been accepted by all the parties concerned. Accordingly, the following directions and orders are passed :

1. *All the four petitioners/accused persons concerned and the respondent-lady defacto complainant will personally report before the Co-ordinator of the District Mediation Centre, Kozhikode by 10.15 a.m. on 27.1.2021. .Thereupon, the District Mediation Centre, Kozhikode will refer the parties to an experienced and senior mediator, who will commence the mediation process and complete the same preferably within 6 weeks, at any rate, within an outer time limit of 8 weeks therefrom.*

2. *If the mediation process is successful, then the terms and conditions of the settlement shall be put into writing and the memorandum of the mediation settlement agreement shall be duly executed and signed by all the parties concerned. If the mediation process is so successful, then the petitioners will be at liberty to take the benefit of the same and may file appropriate petition seeking quashment of the impugned criminal proceedings on the ground of*

settlement. If the mediation process is not successful for any reason, either partially or wholly, then all contentions of the parties are left open to be raised and decided in appropriate proceedings in the manner known to law.

9. The Registry may return back certified copies of any other documents in these cases, if a request in that regard is made by the respective counsel for the petitioners and in such a case, Registry will ensure that photocopies of the said documents are placed in the respective original case file for the purpose of maintenance of records. Registry will forward a copy of this order to the Co-ordinator of the District Mediation Centre, Kozhikode as well as to the Judicial First Class Magistrate Court, Chavakkad, Thrissur, who is dealing with calendar case, CC No.730/2012 for necessary information. Further, with the consent of all the parties concerned, it is ordered that further proceedings in relation to the impugned calendar case CC No.730/2012 on the file of the Judicial First Class Magistrate Court, Chavakkad, Thrissur will stand deferred until the conclusion of the mediation proceedings.

With these observations and directions, the above Criminal Miscellaneous case will stand disposed of.

Sd/-
ALEXANDER THOMAS
JUDGE

SKS

APPENDIX OF Crl.MC 4558/2018

PETITIONER'S/S EXHIBITS:

ANNEXURE I	**TRUE COPY OF THE PETITION DATED 14/1/2012 BEFORE THE ASSISTANT COMMISSIONER OF POLICE, GURUVAYOOR FILED BY THE 3RD RESPONDENT.**
ANNEXURE II	**TRUE COPY OF THE PETITION IN O.P.NO.140/2012 BEFORE THE FAMILY COURT, THRISSUR FILED BY 3RD RESPONDENT.**
ANNEXURE III	**TRUE COPY OF THE OBJECTION ALONG WITH THE COUNTER CLAIM IN 140/2012 BEFORE THE FAMILY COURT, THRISSUR FILED BY THE PETITIONER.**
ANNEXURE IV	**TRUE COPY OF THE FINAL REPORT DATED 30/4/2012 BEFORE THE JUDICIAL FIRST CLASS MAGISTRTE COURT, CHAVAKKAD IN CRIME NO.51 OF 2012 SUBMITTED BY 2ND RESPONDENT.**

APPENDIX OF Crl.MC 1247/2014

PETITIONER'S/S EXHIBITS:

ANNEXURE A1	**TRUE COPY OF THE COMPLAINT FILED BY THE IST RESPONDENT BEFORE THE ASSISTANT COMMISSIONER OF POLICE, GURUVAYOOR**
ANNEXURE A2	**TRUE COPY OF THE FINAL REPORT DATED 30-04-2012 IN FIR 51/12 SUBMITTED BY THE SUB INSPECTOR OF POLICE, GURUVAYOOR**

APPENDIX OF Crl.MC 3566/2014

PETITIONER'S/S EXHIBITS:

EXHIBIT A1	**COPY OF THE COMPLAINT**
EXHIBIT A2	**TRUE COPY OF THE FINAL REPORT**