IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

FRIDAY, THE 18TH DAY OF DECEMBER 2020 / 27TH AGRAHAYANA, 1942

Crl.MC.No.7004 OF 2016

AGAINST THE ORDER/JUDGMENT IN CC 903/2015 OF JUDICIAL MAGISTRATE OF FIRST CLASS ,PARAPPANANGADI

CRIME NO.549/2015 OF Tanur Police Station , Malappuram

PETITIONERS/ACCUSED NOS. 2 & 3:

1 KUNHIMUHAMMED HAJI
S/O BEERAN HAJI, AGED 70 YEAERS, IRANIYAN HOUSE, KUNDOOR, THEYYALA, MALAPPURAM DISTRICT.

2 NAFEESA
W/O KUNHIMUHAMMED HAJI, IRANIYAN HOUSE, KUNDOOR, THEYYALA, MALAPPURAM DISTRICT.

BY ADV. SRI.BABU S. NAIR

RESPONDENTS/STATE & COMPLAINANT:

1 THE STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM 682 031, FOR THE SUB INSPECTOR OF POLICE, TANUR POLICE STATION, MALAPPURAM DISTRICT.

2 SAHANAJ K.K
D/O SULAIMAN, KOZHIKKATTIL HOUSE, CHERUMUKKU, TIRURANGADI, MALAPPURAM DISTRICT PIN 676 306.

R1-2 BY ADV. SRI.ARUN MATHEW VADAKKAN
R1 BY ADV. SRI.K.P.SUDHEER

OTHER PRESENT:

SRI.SAIGI JACOB PALATTY, PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 18.12.2020, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ALEXANDER THOMAS, J.

CRL. M.C. No. 7004 of 2016

Dated this the 18th day of December, 2020

O R D E R

The prayer in the afore-captioned Crl. M.C. filed under section 482 of Cr.P.C. is as follows:

> ".....to quash the entire proceedings in C.C.No.903/2015 of the J.F.C.M., Parappanangadi, arising out of Crime No.549/2015 of the Tanur Police Station, Malappuram District, in the interests of justice."

2. Heard Sri. Babu S. Nair, learned counsel appearing for the petitioners (A2 & A3), Sri. Saigi Jacob Palatty, learned counsel Public Prosecutor appearing for R1, State of Kerala and Sri. Arun Mathew Vadakkan, learned counsel appearing for contesting respondent No.2 (lady is a defacto complainant).

3. The petitioners herein have been arrayed as accused Nos.2 and 3 among the three accused in the instant impugned Annexure-B F.I.R. in Crime No.549/2015 of the Tanur Police Station for offences punishable under sections 498A, 406 r/w. Section 34 IPC in the pursuance of the impugned Annexure-A private criminal complaint dated 07.05.2015 filed by the 2nd respondent lady defacto complainant before the Judicial First

Class Magistrate Court, Parappanangadi, in which the learned Magistrate had directed in terms of section 156 (3) Cr.P.C. that the police should register a crime and investigate the allegations thereon. Thereafter, the police has completed the investigation and filed the impugned Annexure-C final report/charge sheet in the said crime No.549/2015 of the Tanur Police Station, which has led to the pendency of Calandar Case, C.C.No.903/2015 on the file of the JFCM-I, Parappanangadi, as against the 3 accused persons therein for the above said alleged offences in question.

4. The brief of the prosecution case is that A1 is the husband of R2 lady complainant and the petitioners herein (A2 and A3) are father and mother respectively of the second respondent. That after the marriage of the aforesaid spouses, the second respondent lady defacto complainant has been subjected to cruelty and harassment by various acts of the accused persons, etc. One of the main contentions urged by the learned counsel for the petitioners is that though there may be some allegations as against A1 (husband of R2 and the son of the petitioners), there are no serious allegations raised against the petitioners herein A2 and A3 in the impugned criminal proceedings so as to justify the impugned criminal proceedings initiated against them.

5. The learned public prosecutor would point out that a mere reading of Annexure-A private criminal complaint would make it clear that there are indeed allegations raised as against the petitioners herein as well, so as to justify the impugned criminal proceedings, etc. Further, the learned Public Prosecutor would point out that, though the impugned Annexure-C final report / charge sheet has been filed and challenged in this case, none of the statements of charge witnesses in this case, which forms the part of the memorandum of evidence appended to the final report / charge sheet has been produced in this case and therefore it may not be possible for this Court to make any judicial evaluation of the above said contention raised by the petitioners that there are no serious allegations as raised against the petitioners.

6. The above Crl. M.C. has been filed as early as on 18.10.2016. Thereafter, both sides have not apprised this Court about any of the subsequent developments of this case. Hence, this Court is constrained to request the Registry to ascertain from the Judicial First Class Magistrate Court-I, Parappanangadi about the subsequent developments of this case.

7. As informed, so far the charges in this case has not

been framed against the accused persons. After hearing both sides, this Court is not in a position to interdict in the impugned criminal proceedings at this stage. However, taking note of the fact that the impugned criminal proceedings have allegedly occurred in the context of matrimonial disputes between the second respondent and the son of the petitioners and as the petitioners herein are the parents-in-law of the second respondent, this Court is of the considered view that serious effort should be made by all the rival parties concerned to seek mediatory settlement of all outstanding issues.

8. Accordingly, it is ordered that the Judicial First Class Magistrate Court-I, Parappanangadi, who is dealing with C.C. No.903/2015 will, on receipt of a copy of this order, issue notices to all the three accused persons and the second respondent lady defacto complainant and may refer the parties to the nearest mediation centre concerned, preferably the District Mediation Centre, Manjeri or any other Mediation Centre attached to a Court which is opted to by the parties. The mediator concerned will ensure that the mediation process is commenced without any further delay and the same is completed immediately thereafter at any rate within a period of three months from the date of the first

sitting. Thereafter, the mediation centre will furnish the report. In case the mediation process is successful, then the parties may enter in to mediation settlement agreement. The report of the mediation process and its outcome shall be forwarded to the Judicial First Class Magistrate Court I, Parappanangadi as well as to the Registry of this Court. If the mediation process is successful, then the petitioners may avail the benefit of the same. In case the mediation process is not successful, then the petitioners will be at liberty to seek appropriate statutory remedy like discharge, etc.

9. Sri.Babu.S.Nair, learned counsel appearing for the petitioners has pointed out that the first petitioner (A1) is now more than 74 years old and is suffering from serious ailments as can be seen from Exts.D1, D2 and D3 medical records. If the first petitioner has any personal difficulties in attending to the mediation proceedings, then he may authorise either the second petitioner or any of his authorised representative to appear before the mediator on his behalf. However, if the mediation process is successful and the mediation settlement agreement is to be executed and signed, then it shall be ensured that all the parties shall sign in the mediation agreement. Further, with the consent

of all the parties concerned, it is ordered in the interest of justice that until the conclusion of the mediation process, further proceedings before the trial court may be deferred.

10. The Registry will forward a copy of this order to the Judicial First Class Magistrate Court-I, Parappanangadi, who is dealing with C.C.No.903/2015 for necessary information and further action.

With these observations and directions, this Crl. M.C. will stand disposed of.

Sd/-

ALEXANDER THOMAS

JUDGE

SKP

APPENDIX

PETITIONERS'S EXHIBITS:

ANNEXURE A	**CERTIFIED COPY OF THE PRIVATE COMPLAINT FILED BY THE 2ND RESPONDENT BEFORE THE J.F.C.M. PARAPPANANGADI DATED 07-05-2015**
ANNEXURE B	**CERTIFIED COPY OF THE F.I.R IN CRIME NO 549/2015 OF THE TANUR POLICE STATION DATED 08-05-2015**
ANNEXURE C	**CERTIFIED COPY OF THE FINAL REPORT IN CRIME NO 549/2015 OF THE TANUR POLICE STATION,**
ANNEXURE D(1)	**TRUE COPY OF THE MEDICAL CERTIFICATE ISSUED TO THE FIRST PETITIONER FROM THE BABY MEMORAIL HOSPITAL, KOZHIKKODE.**
ANNEXURE D(2)	**TRUE COPY OF THE MEDICAL CERTIFICATE ISSUED TO THE FIRST PETITIONER FROM THE AHALYA HOSPITAL, ABU DHABI.**
ANNEXURE D(3)	**TRUE COPY OF THE MEDICAL CERTIFICATE ISSUED TO THE FIRST PETITIONER FROM THE N.M.C. SPECIALITY HOSPITAL, ABU DHABI.**

RESPONDENTS'S EXHIBITS: **NIL**

TRUE COPY

P.A. TO JUDGE