

**IN THE COURT OF THE JUDICIAL I CLASS MAGISTRATE,  
KOLENCHERRY:**

**Present : Smt. Sirsha N A,  
Judicial I Class Magistrate.**

**Saturday the 31<sup>st</sup> day of May, 2025**

**CMP No. 720 of 2023**

**In**

**CC No: 133 of 2021**

**Petitioners/ Accused** : A2 Vijayakumar, S/o Narayanan, age 67/21,  
Palakottil House, Pannikuzhi Kara, Puthencruze Village  
A3 Thankamma, W/o Vijayakumar, age 64/21,  
Palakottil House, Pannikuzhi Kara, Puthencruze Village,

(By Adv. Sebin Thomas)

**Respondent** : State of Kerala represented by Sub Inspector of Police,  
Puthencruz Police Station (Crime No: 14/21)  
(By A.P.P. Kolenchery)

**Order** : CMP is allowed.

**ORDER**

This is a petition filed u/s. 239 Cr.P.C. by the second and third accused in this case.

2. The case is instituted on the basis of the final report filed by the Sub Inspector of Police, in Crime No: 14/2021 of Puthencruz Police Station alleging offences punishable under sections 498(A), 324, 34 of IPC. Petitioners are the 2<sup>nd</sup> and 3<sup>rd</sup> accused in this case.

3. **The petition averments are as follows:-** The petitioners are the second and third accused in the above case. The 2<sup>nd</sup> and 3<sup>rd</sup> petitioners are the father and mother of the 1st accused. The above case is charged under sections 498(A), 324 and 34 of IPC. The above case arose from the FIR registered as Crime No.14/2021 of Puthencruz Police Station. The petitioners did not

commit any offence as alleged in the charge sheet. The petitioners don't have any intention to harass the defacto complainant at any point of time. Mentioning the petitioner's names in the complaint is merely with an intention to harass them without any valid cause. And moreover the investigating officer also fails to investigate the role of the petitioners in accordance with the statements given by the defacto complainant as well as the statements given by others. On perusal of the records filed by the prosecution it can be seen that the statement of the defacto complainant does not make the petitioner held liable for the offence under 498A of IPC. The prosecution filed a charge sheet with a prejudiced mind. The allegations in the charge sheet do not attract Sec.324 of IPC against the petitioners. From the statements given by the defacto complainant it can be seen that there isn't any kind of act from the part of petitioners which amounts to hurt. There is no evidence to show that the petitioners have done anything as alleged by the prosecution. Simply putting the petitioners in this case without any valid evidence is not just and liable to be interfered with.

4. Copy served to the prosecution. Though the learned Assistant Public Prosecutor on behalf of the prosecution opposed the application he could not put forth any convincing arguments making the petitioner dis-entitled for the discharge.

5. Heard. Perused the records.

**6. Point for Determination:**

Whether the materials on record, even if taken at face value, make out a prima facie case against A2 and A3 to proceed to trial under Sections 498A, 324 r/w 34 IPC?

**Discussion and Finding:**

7. **Section 239 CrPC** mandates that if, upon consideration of the police report and documents and after hearing the accused and prosecution, the Magistrate considers that no sufficient ground exists for proceeding against the accused, he shall discharge the accused.

8. In *State of Karnataka v. L. Muniswamy* [(1977) 2 SCC 699], the Hon'ble Supreme Court held that: *"If the materials placed before the court do not disclose the commission of the offence alleged, and if there is no grave suspicion against the accused, then the court must discharge him. The judge has the discretion to sift the evidence to see whether there is sufficient ground for proceeding."*

9. Similarly, in *Geeta Mehrotra v. State of UP* [(2012) 10 SCC 741], the Hon'ble Apex Court observed that: *"In cases under Section 498A IPC, a routine implication of every member of the family without specific allegations amounts to abuse of the judicial process, and courts must exercise caution and scrutinise the allegations before proceeding."*

10. Coming to the facts of the present case, a meticulous perusal of the final report and the witness statements, including that of the defacto complainant, reveals no specific allegations or acts of cruelty or assault attributable to A2 and A3. The defacto complainant has not alleged any independent act of physical or mental cruelty by the petitioners nor does she assert any act falling within the ambit of Section 498A IPC, which requires willful conduct likely to drive a woman to commit suicide or cause grave injury or harassment related to unlawful demands.

11. As regards Section 324 IPC, there is no material to suggest any voluntary causing of hurt with a dangerous weapon or means by the petitioners.

The charge under Section 34 IPC also cannot be sustained in the absence of any overt act or common intention attributed to A2 and A3.

**Conclusion:**

12. On a holistic assessment of the material on record and in light of the principles laid down in the above decisions, it is evident that the allegations are general and omnibus in nature, and do not establish the essential ingredients of the offences alleged as far as A2 and A3 are concerned.

13. The continuation of criminal proceedings against them would amount to an abuse of the process of law, causing undue harassment without a prima facie case.

**In the result**, the petition is allowed. The 2<sup>nd</sup> and 3<sup>rd</sup> accused are hereby discharged under Section 239 CrPC from the proceedings in C.C. No. 133 of 2021 for the offences under Sections 498A, 324 r/w 34 IPC

(Dictated to the Confdl, Asst, transcribed and typed by her, corrected by me and pronounced in open court on this the 31<sup>st</sup> day of May, 2025.)

**Sirsha N A**  
**Judicial I<sup>st</sup> Class Magistrate**  
**Kolencherry**