



2025:KER:32190

Crl.M.C.Nos.2174 & 994/2016

-1:-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE G.GIRISH

FRIDAY, THE 11TH DAY OF APRIL 2025 / 21ST CHAITHRA, 1947

CRL.MC NO. 2174 OF 2016

AGAINST CC NO.1469 OF 2014 OF JUDICIAL MAGISTRATE OF
FIRST CLASS -II, CHERTHALA

PETITIONERS/ACCUSED NUMBERS 1 TO 7:

- 1 SAHIR RAHMAN
AGED 38 YEARS
SON OF ABDUL RAHMAN, MANAMKURICHI VEEDU,
PANAVALLY P.O, CHERTHALA, ALAPPUZHA
- 2 NABEESA,
AGED 67 YEARS,
WIFE OF ABDUL RAHMAN, MANAMKURICHI VEEDU,
PANAVALLY P.O, CHERTHALA, ALAPPUZHA
- 3 SUHARA,
AGED 44 YEARS, WIFE OF HAMEED,
KARALAM PARAMBU, NADAVATHU NAGAR P.O,
CHERTHALA, ALAPPUZHA
- 4 SAFIYA,
AGED 40 YEARS, WIFE OF HASHIM, KIZHAKKE
MANAPPALLY, NADUVATHU NAGAR,
AROOKUTTY P.O, CHERTHALA, ALAPPUZHA
- 5 NISA SAUFNISA,
AGED 38 YEARS, WIFE OF SHAJI,
CHINGARATHUMKADU, THYUKATTUSSERY P.O,
CHERTHALA, ALAPPUZHA
- 6 SAJITHA
AGED 30 YEARS, WIFE OF NOUSHAD,
MOOTHAMPACKAL, AROOKUTTY P.O,
CHERTHALA, ALAPPUZHA



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-2:-

7 SUBEENA SUBINA,
 AGED 27 YEARS, WIFE OF MUNNAVEER,
 PARAMBIL PADINJARU, AROOKUTTY P.O, CHERTHALA,
 ALAPPUZHA

 BY ADVS.SRI.ABDUL JALEEL.A
 SMT.M.A.SULFIA

RESPONDENTS/STATE AND DE FACTO COMPLAINANT :

1 STATE OF KERALA
 REPRESENTED BY THE PUBLIC PROSECUTOR,
 HIGH COURT OF KERALA, ERNAKULAM,
 KOCHI 682 031

2 NUBLA V
 AGED 27 YEARS, DAUGHTER OF LATHEF,
 KATTILPARAMBATH, PARAMBIL P.O,
 CHERUVATA, KOZHIKODE 673 012

 SRI.SANGEETHARAJ.N.R, PUBLIC PROSECUTOR

 THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
11.04.2025, ALONG WITH CrI.MC.994/2016, THE COURT ON THE SAME
DAY PASSED THE FOLLOWING:



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Cr.L.M.C.Nos.2174 & 994/2016

-3:-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE G.GIRISH

FRIDAY, THE 11TH DAY OF APRIL 2025 / 21ST CHAITHRA, 1947

CRL.MC NO. 994 OF 2016

CC NO.401 OF 2015 OF JUDICIAL MAGISTRATE OF FIRST CLASS
COURT-I, KOZHIKODE

PETITIONERS/ACCUSED:

SAHEER RAHMAN
AGED 37 YEARS
S/O. ABDUL RAHIMAN, MANAMKURICHI VEEDU,
PANAVALLY P.O., CHERTHALA,
ALAPPUZHA DISTRICT-688 526.

BY ADVS. ABDUL JALEEL.A
M.A.SULFIA

RESPONDENTS/ STATE AND DE FACTO COMPLAINANT:

- 1 STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.
- 2 NUBLA V.
AGED 27 YEARS
D/O. LATHEEF, KATTILPARAMBATH PARAMBIL,
CHERUVATA P.O., KOZHIKODE-673 012.

SRI.SANGEETHARAJ.N.R.PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
11.04.2025, ALONG WITH CrL.MC.2174/2016, THE COURT ON THE SAME
DAY PASSED THE FOLLOWING:

**ORDER**

Both these petitions relate to the offences which arose out of the alleged matrimonial cruelty meted out to the 2nd respondent by her husband who is the first petitioner in Crl.M.C.No.2174/2016, and the sole petitioner in Crl.M.C.No.994/2016. Crl.M.C.No.2174/2016 has been filed by the first petitioner along with six others who are his mother and siblings, against whom, the Poochakkal Police registered Crime No.73/2014 in connection with the commission of offences under Sections 498A and 323 read with Section 34 I.P.C. In the aforesaid case, the S.I of Police, Poochakkal, after completion of the investigation, filed final report against the seven accused who are the petitioners in Crl.M.C.No.2174/2016. The aforesaid final report was taken into files by the Judicial First Class Magistrate Court-II, Cherthala as C.C.No.1469/2014, and summons ordered to the accused. Crl.M.C.No.994/2016 has its origin in a private complaint filed by the second respondent against her husband, sisters of her husband, and their spouses, alleging the commission of offence under Sections 341, 323 and 498A I.P.C. The learned Judicial First Class Magistrate-I, Kozhikode, after the completion of the enquiry under Section 202 Cr.P.C, took the above complaint into files as C.C.No.401/2015 and issued



summons to the first petitioner herein to answer the charges under the aforesaid Sections. In the present petitions, the petitioners seek to quash the proceedings in both these cases.

2. According to the petitioners, the de facto complainant/second respondent initiated the prosecution proceedings in these cases by raising false and baseless allegations. It is further contended that there are no materials on record to attract the offences alleged against the petitioners. The first petitioner is stated to be a hemophilia patient undergoing continuous treatment right from his childhood. He is also said to be suffering from bilateral chronic knee arthropathy and another serious ailmentS caused due to excess consumption of pain killers and other medicine. The petitioners would also contend that the de facto complainant has initiated parallel proceedings before the Judicial First Class Magistrate Court-II, Cherthala and Judicial First Class Magistrate Court-I, Kozhikode alleging false and baseless allegations against the petitioners to harass them. For the above reasons, the petitioners seek to terminate the prosecution proceedings in these cases.

3. Both these petitions were earlier disposed of by the order dated 12.03.2025. The aforesaid order was recalled and the petitions



were restored to files as per order dated 10.04.2025 in CrI.M.A.No.1 of 2025.

4. Heard the learned counsel for the petitioners and the learned Public Prosecutor representing the State of Kerala.

5. The sum and substance of the accusations levelled against the petitioners in these cases are as follows:

The first petitioner married the de facto complainant on 22.09.2012, and thereafter they had been residing together in the house of the first petitioner at Cherthala. A male child is born on the above wedlock. The 40 sovereigns of gold ornaments which the de facto complainant was having at the time of her marriage, were squandered by the first petitioner. Thereafter, the petitioners started physically and mentally torturing the de facto complainant demanding more dowry. On 14.09.2013, the petitioners subjected the de facto complainant to severe physical torture asking her to bring more gold and money from her house. Again, on 08.10.2013, the husband of one of the sisters of the first petitioner had attempted to outrage the modesty of the de facto complainant. The physical and mental torture of the de facto complainant continued at the instance of the petitioners, with the further demand of an amount of Rs.5,00,000/- for the commencement of a



cinema poster designing business for the first petitioner. On 17.10.2013, the first petitioner took the de facto complainant from his house and dropped her at her residence. Thereafter, on 26.10.2013, the first petitioner came to the house of the de facto complainant and demanded money. As the de facto complainant and her parents were not able to arrange money, the first petitioner subjected the de facto complainant to severe physical torture at her residence also in the morning of 27.10.2013. As a result of the act of the first petitioner kicking upon her lower abdomen, the de facto complainant fell unconscious. At that time, the first petitioner took the child and left the place. It is after a day that the de facto complainant was able to get back the child with the assistance of police. The de facto complainant was threatened by the petitioners that if she preferred to complain against the atrocities of the petitioners, she would be done away with. Thereafter, on 26.12.2013, the first petitioner called the de facto complainant over telephone and requested her to come to his house so that they could reside together peacefully. Accordingly, the de facto complainant had reached the house of the first petitioner along with her child at about 4:00 p.m on 27.12.2013. At that time, the petitioners 5 to 7 locked the de facto complainant in a room and subjected her to physical assault by beating



and kicking her. She was also verbally abused and threatened by the petitioners. The 5th petitioner had hit the de facto complainant upon her face, grabbed her neck and snatched away the gold chain worth 2½ sovereigns worn by her. The petitioners also caused the heads of the de facto complainant and her child hit upon the walls and caused injuries. Thereupon, the de facto complainant took shelter in a neighbouring house. Lateron, at the intervention of the Mosque Committee and others, the de facto complainant was taken to an orphanage at Vaduthala from where her parents took her to the District Hospital, Ernakulam on 28.12.2013 and given treatment there. Thus, it is highly necessary to proceed against the petitioners for the aforesaid cruelty meted out to the de facto complainant.

6. The learned counsel for the petitioners contended that all the allegations levelled by the de facto complainant in the above regard are utter falsehood, and intended to harass the petitioners. It is further pointed out that there were a series of litigations between the de facto complainant and the first petitioner at the Family Court and the Judicial First Class Magistrate Court concerned in connection with the matrimonial discord between them, and that the complaints relating to the present cases are the outcome of the attempt of the de facto



complainant to try whether the petitioners could be pressurized to meet her illegal demands. The learned counsel for the petitioners also pointed out that the complaints preferred by the de facto complainant in respect of the same matter in two different courts of Cherthala and Kozhikode itself reveal her actual intention to misuse the process of law. The learned counsel would further argue that the first petitioner is physically incapacitated due to various ailments suffered by him, and that he finds it difficult even to walk. Thus, it is stated that the allegation of physical tortures attributed to him is totally baseless.

7. As already stated above, C.C.No.401/2015 arose out of the private complaint preferred by the de facto complainant before the Judicial First Class Magistrate-I, Kozhikode alleging the commission of offence under Sections 341, 323 and 498A I.P.C against the first petitioner, his mother, his sisters and their spouses. In the above case, the learned Magistrate, after recording the sworn statement of the de facto complainant and two witnesses, issued summons only against the first petitioner. The allegations in the said complaint are concentrated upon the physical and mental cruelty perpetrated upon the de facto complainant right from the time of her marriage with the first petitioner, with special reference to the incidents happened on 14.09.2013,



08.10.2013, 17.10.2013, 18.10.2013, 26.10.2013 and 27.10.2013. The complaint which the de facto complainant preferred before the Sub Inspector of Police, Poochakkal on 30.12.2013 which eventually resulted in the registration of Crime No.73/2014 and the filing of final report in C.C.No.1469/2014 of the Judicial First Class Magistrate Court-II, Cherthala, is mainly concentrated on the incidents which happened at the residence of the first petitioner on 27.12.2013 when the de facto complainant is said to have reached that house as called by the first petitioner. At any rate, all those incidents narrated in both these cases relate to the matrimonial cruelty and resultant tortures which the de facto complainant is said to have suffered at the hands of her husband, his mother and sisters. The truth or falsity of those allegations cannot be adjudicated in a proceeding under Section 482 Cr.P.C. It is a matter to be decided by the Trial Magistrate after analysing the evidence adduced by the parties scrupulously. However, the parallel proceedings before two different courts at Cherthala and Kozhikode in respect of the same matter are totally unwarranted. The incidents mentioned in the private complaint preferred by the de facto complainant before the Judicial First Class Magistrate Court-I, Kozhikode have been narrated by the de facto complainant in the complaint which she preferred before the



Sub Inspector of Police, Poochakkal on 30.12.2013 which led to the filing of final report in C.C.No.1469/2014 on the files of Judicial First Class Magistrate Court-II, Cherthala. The brief facts of the case described in the said final report contain the whole allegations raised by the de facto complainant in both these cases. That being so, the criminal prosecution pending before the Judicial First Class Magistrate Court-I, Kozhikode in C.C.No.401/2015 has to be terminated to prevent the abuse of process of court and the wastage of precious judicial time. Accordingly, I find that the relief sought for by the petitioners in Crl.M.C.No.994/2016 is liable to be allowed without prejudice to the continuance of the criminal prosecution in C.C.No.1469/2014 on the files of the Judicial First Class Magistrate Court-II, Cherthala. The prayer in Crl.M.C.No.2174/2016 to quash the proceedings in the said case cannot be allowed since the allegations levelled against the petitioners in the final report filed in C.C.No.1469/2014 would prima facie bring out the offences alleged against them.

In the result, both these petitions are disposed of as follows:

The proceedings against the first petitioner/accused in C.C.No.401/2015 on the files of the Judicial First Class Magistrate Court-I, Kozhikode are hereby quashed without prejudice to the



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continuance of the criminal prosecution against the petitioners in C.C.No.1469/2014 on the files of the Judicial First Class Magistrate Court-II, Cherthala.

(sd/-)

G. GIRISH, JUDGE

jsr



APPENDIX OF CRL.MC 994/2016

PETITIONER ANNEXURES

ANNEXURE A1 : COPY OF THE COMPLAINT FILED BY 2ND RESPONDENT BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT-I, KOZHIKODE.

ANNEXURE A2 : COPY OF STATEMENT OF 2ND RESPONDENT AS CW1.

ANNEXURE A3 : COPY OF STATEMENT OF NOORJAHAN WIFE OF LATHEEF AS CW2.

ANNEXURE A4 : COPY OF STATEMENT OF ABDU RAHIMAN, SECRETARY, MUZHIKKAL MAHAL JUMA MASJID AS CW3.

ANNEXURE A5 : COPY OF OP TICKET ISSUED BY THE GOVERNMENT GENERAL HOSPITAL (BEACH)M KOZHIKODE, DTD.19.1.2013.

ANNEXURE A6 : COPY OF SUMMONS ISSUED TO PETITIONER.

ANNEXURE A7 : COPY OF MEDICAL CERTIFICATE.

ANNEXURE A8 : COPY OF ID CARD.

ANNEXURE A9 : COPY OF THE COMPLAINT FILED BEFORE THE VANITHA CALL INSPECTOR.

ANNEXURE A10: COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN TPCR NO.60/2014 DTD.31.3.2015.



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APPENDIX OF CRL.MC 2174/2016

PETITIONER EXHIBITS

A1	CERTIFIED COPY OF F.I.R IN CRIME NO 73/2014 ON POOCHAKKAL POLICE STATION
A2	CERTIFIED COPY OF FINAL REPORT SUBMITTED IN C.C 1469/2014 ON THE FILES OF JUDICIAL FIRST CLASS MAGISTRATE COURT-II CHERTHALA
A3	TRUE COPY OF THE COMPLAINT FILED BY 2ND PETITIONER BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT-II CHERTHALA
A4	TRUE COPY OF THE COMPLAINT FILED BY THE 2ND RESPONDENT BEFORE THE JUDICIAL FIRST CLASSMAGISTRATE COURT-I, KOZHIKODE
A5	A TRUE COPY OF ID CARD ISSUED TO THE 1ST PETITIONER
A7	TRUE COPY OF THE COMPLAINT FILED BEFORE THE VANITHA CELL INSPECTOR
A8	TRUE COPY OF THE JUDGMENT OF THIS HONOURABLE COURT IN TRP(CRL.) NO 60/2014 DATED 31/3/2015
Annexure A9	A TRUE COPY OF THE MEDICAL CERTIFICATE DATED 17/10/2018 ISSUED BY THE MEDICAL OFFICER
Annexure A10	A TRUE COPY OF THE CERTIFICATE DATED 28/9/17 OF MEDICAL BOARD, GENERAL HOSPITAL
Annexure A11	THE TRUE COPY OF THE COMMON JUDGMENT DATED 29/07/2017 IN OP (DIVORCE) 334/2015 AND MC 213/2014.