

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE P.D.RAJAN**

**THURSDAY, THE 31ST DAY OF OCTOBER 2013/9TH KARTHIKA, 1935**

**Crl.MC.No. 500 of 2012 (B)**  
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**[C.C. NO.45/2010 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-I,  
KANJIRAPPALLY]**  
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**PETITIONERS/ACCUSED 2,3 AND 4:**  
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- 1. P.A.ISMAIL AGED 64 YEARS,  
S/O.HASSAN, PUTHENVEETIL HOUSE, MUKKALI,  
PALAMBRA P.O., KANJIRAPPALLY-686 518.**
- 2. KULSUM BEEVI,  
W/O.P.A.ISMAIL, PUTHENVEETIL HOUSE, MUKKALI,  
PALAMBRA P.O., KANJIRAPPALLY-686 518.**
- 3. SHILJI SHAMSUDDHIN,  
D/O.P.A.ISMAIL, PUTHENVEETIL HOUSE, MUKKALI,  
PALAMBRA P.O., KANJIRAPPALLY-686 518.**

**BY ADV. SRI.T.M.ABDUL LATHEEF.**

**RESPONDENTS/(STATE AND DE-FACTO COMPLAINANT):**  
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- 1. STATE OF KERALA,  
REPRESENTED BY THE PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. SUB INSPECTOR OF POLICE,  
KANJIRAPPALLY- 686 507.**
- 3. SUB INSPECTOR OF POLICE,  
THRISSUR - 680 001.**
- 4. SAMEERA,  
D/O.AFSABABU, PONTHELAVALAPPIL VEEDU,  
P.O.ARIMBOOR,  
THRISSUR - 680 620.**

**R1 TO R3 BY PUBLIC PROSECUTOR SRI. GITHESH.R.**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD  
ON 31-10-2013, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:**

**Prv.**

**CRL.M.C. NO.500/2012-B:**

**APPENDIX**

**PETITIONERS' ANNEXURES:**

- ANNEXURE-A1.** TRUE COPY OF THE COMPLAINT C.M.P.NO.4362/2010 DATED 8.10.2010 FILED BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT-I, KANJIRAPPALLY.
- ANNEXURE-A2.** TRUE COPY OF THE F.I.R.NO.469/09 DATED 17.11.2009 OF KANJIRAPPALLY POLICE STATION, ALONG WITH RELEVANT PAGES OF THE CHARGE SHEET.
- ANNEXURE-A3.** TRUE COPY OF THE AGREEMENT DATED 30.12.2009.
- ANNEXURE-A4.** TRUE COPY OF THE FINAL REPORT IN CRIME NO.469/09 OF KANJIRAPPALLY POLICE STATION.
- ANNEXURE-A5.** TRUE COPY OF THE COMPLAINT DATED 2.7.2010 FILED BY THE 4TH RESPONDENT BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT-II, THRISSUR.
- ANNEXURE-A6.** TRUE COPY OF THE FINAL REPORT IN CRIME NO.469/09 OF KANJIRAPPALLY POLICE STATION.

**RESPONDENTS' ANNEXURES:** NIL.

**//TRUE COPY//**

**P.A. TO JUDGE.**

**Prv.**

**P.D. RAJAN, J.**

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Crl.M.C.No.500 of 2012  
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Dated this the 31<sup>st</sup> day of October, 2013

**ORDER**

This petition is filed under Section 482 of Cr.P.C. for quashing the criminal proceedings against the petitioners 1 to 3 who are accused 2, 3 and 4 in C.C.No.45/2010 of Judicial First Class Magistrate Court-I, Kanjirappally.

2. The case of the petitioners 1 and 2 is that their son 'Shiyas' married the 4<sup>th</sup> respondent as per Muslim customary rites, on 11.10.2009. After the marriage, they resided in the matrimonial house for 14 days only and thereafter, they separated. Shiyas is now working abroad. While the 4<sup>th</sup> respondent was residing in the matrimonial house, the petitioners ill- treated her physically and mentally demanding more amount and gold as dowry. Therefore, she was forced to file a complaint before the Kanjirappally Police Station and they registered a crime under Section 498A of IPC. After completing investigation, a final report was filed before the Judicial First Class Magistrate

Court-I, Kanjirappally on 31.12.2009. The petitioners' allegation is that the 4<sup>th</sup> respondent was resided in the matrimonial house till 24/10/2009 and thereafter, she left the house along with her ornaments. Subsequently, she was taken to the petitioners' house on 21.11.2009. Her allegation in Ext.A2 was that her husband 'Shiyas' threatened her and demanded more amount and gold as dowry. She also alleged that the petitioners also ill-treated her both physically and mentally demanding more amount as dowry. Hence, Kanjirappally Police registered the above crime and investigated and submitted final report.

3. The learned counsel for the petitioners contended that there was no allegation of cruelty by the petitioners against the 4<sup>th</sup> respondent. There was no demand of dowry or harassment from their side. They were arrayed as party only to harass them which is only an abuse of process of law. No statement was recorded from the witness side also and Section 498A IPC is not attracted against the petitioners. As the marital relationship subsisted only for few days and the 4<sup>th</sup> respondent remarried even after that on 4.10.2009, the petitioners agreed to pay the entire amount before the Jama

ath by virtue of Annexure-A3 agreement. If the petitioners are forced to appear before the Court on false allegations, it is a pure abuse of process of law, since no allegation is made against these petitioners in the police case. Hence, they pray to quash the entire criminal proceedings against them.

4. There was no representation for the 4<sup>th</sup> respondent. The learned Public Prosecutor represented for respondents 1 to 3 and contended that the evidence collected by the investigating agency shows a prima facie case against the petitioners. Hence, he prayed to not to interfere in the final report and for ends of justice, a fair trial is necessary.

5. Based upon the arguments, I have perused the final report submitted by the police and the allegations in Annexure-A2. According to Section 482 Cr.P.C., the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under the Code or to prevent abuse of process of any Court or otherwise for securing the ends of justice. The statement given by the 4<sup>th</sup> respondent in the Kanjirappally Police Station shows that her marriage was on 11.10.2009 at Kanjani Indu Auditorium as per Muslim customary rites. Thereafter, she was residing with her

husband. At the time of marriage, she was given Rs.2 ½ lakh as patrimony and 27 ½ sovereigns of gold. While she was residing in the matrimonial house, petitioners 2 and 3 ill-treated her by demanding more amount. Even though she stated so, on which date she was ill-treated, how much amount and gold demanded, are not specifically mentioned in her statement. In the statement of the witness also, such a demand was not found in evidence. In order to attract Section 498A, prosecution has to prima facie made out a case that the 4<sup>th</sup> respondent was subjected to cruelty by the husband and his relatives, by their wilful conduct which is of such a nature as is likely to drive her to cause grave injury or danger to life, limb or health or to drive her to commit suicide. Such an allegation is not found in her statement. No allegation was levelled against the father-in-law, the 1<sup>st</sup> petitioner in this case. Therefore, the allegations, the other averments and evidence in this case show that the prima facie case is not made out against petitioners 1 to 3. Therefore, such a charge is an abuse of process against them.

In such circumstances, invoking jurisdiction under Section 482 of Cr.P.C., I quash the other proceedings against

petitioners 1 to 3 and this will not affect the final report filed against 1<sup>st</sup> accused in Crime No.469/2009 of Kanjirappally Police Station.

The Crl.M.C. is allowed as above.

**P.D. RAJAN, JUDGE.**

acd

