

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

**PRESENT:**

**THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR**

**FRIDAY, THE 31ST DAY OF MAY 2013/10TH JYAISHTA 1935**

**Crl.MC.No. 2019 of 2013 ( )**  
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**AGAINST THE ORDER/JUDGMENT IN CC 1223/2012 of J.M.F.C.-II, ALUVA**

**PETITIONER(S)/ACCUSED:**  
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- 1. PRATHEESH P.S. AGED 30 YEARS  
S/O. SOMAN, POTTANATTU HOUSE, THURUTHIPPILLY  
VALAYANCHIRANGARA P.O, ERNAKULAM DISTRICT - 683 556.**
- 2. PRASANNA AGED 52 YEARS  
W/O. SOMAN, POTTANATTU HOUSE, THURUTHIPPILLY  
VALAYANCHIRANGARA P.O, ERNAKULAM DISTRICT - 683 556.**
- 3. PRASAD P.S, AGED 33 YEARS  
S/O. SOMAN, POTTANATTU HOUSE, THURUTHIPPILLY  
VALAYANCHIRANGARA P.O, ERNAKULAM DISTRICT - 683 556.**
- 4. MANI, AGED 42 YEARS  
S/O.NANU, MALIKALA HOUSE, POONOR  
VALAYANCHIRANGARA P.O., ERNAKULAM DISTRICT -683 556.**

**BY ADVS.SRI.T.K.VIPINDAS  
SMT.P.K.PRIYA  
SRI.K.V.SREE VINAYAKAN  
SRI.K.M.MUHAMMED HUSSAIN**

**COMPLAINANT(S)/STATE AND DEFAC TO COMPLAINANT:**  
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- 1. THE STATE OF KERALA  
REPRESENTED BY THE PUBLIC PROSECUTOR  
HIGH COURT OF KERALA, ERNAKULAM  
REPRESENTING THE S.H.O, NEDUMBASSERY POLICE STATION.**
- 2. RESHMA RAJAN, AGED 23 YEARS  
D/O.T.G. RAJAN, THACHUZHIPARAMBIL HOUSE, NAYATHODU P.O  
ANKAMALY, ERNAULAM DISTRICT -683 572.**

**R2 BY ADV. SRI.AJEESH S.BRITE  
BY PUBLIC PROSECUTOR SRI.RAJESH VIJAYAN**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON  
31-05-2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

**Crl.MC.No. 2019 of 2013 ( )**

**APPENDIX**

**PETITIONERS ANNEXURES:**

**ANNEXURE A1: THE CERTIFIED COPY OF THE FIRST INFORMATION REPORT IN CRIME NO.782/2001 OF NEDUMBASSERY POLICE STATION DATED 2.9.2011.**

**ANNEXURE A2: THE COPY OF THE CHARGE SHEET DATED 7.11.2011 IN CRIME NO.782/2012 OF NEDUMBASSERY POLICE STATION.**

**ANNEXURE A3: THE ORIGINAL AFFIDAVIT SOWRN BY THE DEFACTO COMPLAINANT/2ND RESPONDENT.**

**RESPONMDENTS ANNEXURES: NIL**

**//TRUE COPY//**

**P.A. TO JUDGE.**

**dlk**

**C.T.RAVIKUMAR,J.**

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**Crl.M.C.No. 2019 of 2013**  
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**Dated this the 31<sup>st</sup> day of May, 2013**

**O R D E R**

The first petitioner and the second respondent are husband and wife. Essentially, it is the matrimonial disharmony and discord between the first petitioner and the second respondent and the joining in the said issue by the petitioners 2 to 4 that constrained the second respondent to lodge a complaint against the petitioners alleging commission of offences under Sections 498-A of the Indian Penal Code. Based on the said complaint Crime No.782/2011 was registered at Nedumbassery Police Station and after the investigation Annexure-A2 charge sheet was laid. Cognizance was taken thereon and it was taken on the files of the Court of the Judicial First Class Magistrate-II, Aluva as C.C.No.1223/2012. In this petition Annexure-A3 affidavit was sworn in by the second respondent/ the defacto complainant. It is stated therein that the entire disputes that made her to lodge the complaint against the petitioners and that resulted in registration of the aforesaid crime have been settled amicably. It is further

stated therein that now she is living happily with her husband/the first petitioner and in such circumstances continuation of proceedings against the petitioners would put the matrimonial tie the astringent.

2. I have heard the learned counsel for the petitioners, the learned counsel for the second respondent and also the learned Public Prosecutor.

3. Obviously, it is the strained connubial relationship and the constant bickering between the first petitioner and the second respondent and joining in that issue by the other petitioner that led to the registration of the aforesaid crime. True that an offence under Section 498-A is not compoundable. However, it is to be noted in the decision in **B.S.Joshi V. State of Haryana** reported in 2003 (2) KLT 1062 the Honourable Apex Court taking in to account the intent behind the introduction of Chapter XX-A containing Section 498-A held that it would only be appropriate to invoke the inherent jurisdiction if disinclination to invoke the inherent jurisdiction would prevent the wife from settling in her life. It is held by the Apex Court that disinclination

to invoke the inherent jurisdiction which would prevent the wife from settling in her life and such eventuality would defeat the very intent behind the introduction of Section 498-A in the IPC. In this case it is evident that the second respondent is supporting the contentions of the petitioners with a view to preserve and protect the institution of marriage. When that be the case it is only appropriate for this Court to create a conducive situation for the couple to continue to live happily by terminating the entire criminal proceedings now, pending against the petitioners. In the result this criminal M.C. is allowed. Annexure-A1 FIR and Annexure-A2 charge sheet laid in crime No.782/2011 of Nedumbassery Police Station and all further proceedings pursuant thereto pending against the petitioners in C.C.No.1223/2012 on the files of the Court of the Judicial First Class Magistrate-II, Aluva are hereby quashed.

**Sd/-**

**C.T.RAVIKUMAR,JUDGE.**

dlk