

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE K. BABU

THURSDAY, THE 3RD DAY OF AUGUST 2023 / 12TH SRAVANA, 1945

CRL.MC NO. 5681 OF 2021

**AGAINST CC 116/2020 OF ADDITIONAL CHIEF JUDICIAL MAGISTRATE ,
ERNAKULAM**

PETITIONER:

CHANDHINI. T.K, AGED 32 YEARS

RESPONDENT:

STATE OF KERALA
REPRESENTED BY THE STATION HOUSE OFFICER,
ERNAKULAM TOWN SOUTH POLICE STATION, ERNAKULAM,
THROUGH THE PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM, PIN CODE-682 031.

BY SMT.M.K.PUSHPALATHA-PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
03.08.2023, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CR

K.BABU, J.-----
Crl.M.C.No.5681 of 2021

Dated this the 3rd day of August, 2023

O R D E R

The prayer in this Crl.M.C is as follows:

".....to quash the entire proceedings as against the petitioner/4th accused in C.C.No.116/2020 on the files of the Additional Chief Judicial Magistrate's Court (Economic Offences), Ernakulam in the interest of justice."

2. The petitioner is accused No.4 in C.C.No.116/2020 on the file of the Additional Chief Judicial Magistrate Court (Economic Offenes), Ernakulam. She faces charge under Section 498-A r/w Section 34 of IPC.

3. The prosecution case is as follows:

Accused No.1 is the husband of the defacto complainant. Accused No.2 is her mother-in-law. The third accused is her brother-in-law. The petitioner/accused No.4 is maintaining a live-in relationship with accused No.1. He married the defacto complainant on 31.1.2009 as per the Hindu religious rites and customs. The relationship between accused No.1 and the defacto complainant got strained. She lodged a

First Information Statement before the Ernakulam Town South Police Station alleging that her husband and his relatives, including the petitioner herein, subjected her to cruelty. The Police registered FIR No.2035/2018 against the petitioner and the other accused. After completing the investigation, the Police submitted final report alleging the offence punishable under Section 498-A r/w Section 34 of IPC against the petitioner and the other accused.

4. Heard the learned counsel for the petitioner and the learned Public Prosecutor.

5. The learned counsel for the petitioner submitted that the petitioner is allegedly maintaining a live-in relationship with accused No.1 and that she is not a relative of him as contemplated under Section 498-A of IPC and therefore, the offence under Section 498-A of IPC will not be attracted as against the petitioner. The learned counsel relied on **Suvetha.U v. State by Inspector of Police and another** (2009 KHC 680) and **Vijeta Gajra v. State of NCT of Delhi** (2010 KHC 4439) in support of her contentions.

6. Admittedly, the petitioner is not a relative of accused No.1. She is only a woman with whom the first accused has had romantic or

sexual relations outside of marriage. Section 498-A of IPC reads thus:

"Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine."

Explanation.—For the purposes of this section, "cruelty means"—

(a) anywilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.]

7. The specific language of the Section and the Explanation thereof lead to the conclusion that the word 'relative' would not include a woman with whom a man has had sexual relations outside of the marriage. By no stretch of imagination, a girlfriend or even a woman who maintains sexual relations with a man outside of marriage in an etymological sense would be a 'relative'. The word 'relative' brings within its purview a status. Such status must be conferred either by blood or marriage, or adoption. If no marriage has taken place, the question of one being relative of another would not arise. S.498A, IPC being a penal provision, would deserve strict construction, and unless a contextual meaning is required to be given to the statute, the said statute has to be construed strictly. (Vide: **Suvetha.U v. State by Inspector of Police and another** and **Vijeta Gajra v. State of**

NCT of Delhi (supra).

8. These being the facts, I am of the opinion that there will not be a question of prosecution against the petitioner under Section 498-A of IPC. The FIR and the Final Report as against the petitioner shall stand quashed.

The Crl.M.C is allowed as above.

Sd/-

**K.BABU,
JUDGE**

ab

APPENDIX OF CRL.MC 5681/2021

PETITIONER ANNEXURES

- Annexure A TRUE COPY OF THE FIR SUBMITTED BY THE RESPONDENT BEFORE THE ACJM (ECONOMIC OFFENCES) COURT, ERNAKULAM IN CRIME NO.2035/2018 DATED 28.11.2018.
- Annexure B TRUE COPY OF THE FINAL REPORT SUBMITTED BY THE RESPONDENT BEFORE THE ACJM (ECONOMIC OFFENCES) COURT, ERNAKULAM IN CRIME NO.2035/2018 DATED 17.3.2020.

RESPONDENT'S ANNEXURES: NIL