
(2024) 11 KL CK 0042

High Court Of Kerala

Case No: Criminal Miscellaneous Petition No. 5826 Of 2023

Sivaraman Nair

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision: Nov. 25, 2024

Acts Referred:

- Code of Criminal Procedure, 1973 - Section 482
- Indian Penal Code, 1860 - Section 34, 494, 498A

Hon'ble Judges: A. Badharudeen, J

Bench: Single Bench

Advocate: K.R.Sunil, Renjit George

Final Decision: Dismissed

Judgement

A. Badharudeen, J

1. This criminal miscellaneous case has been filed under Section 482 of the Code of Criminal Procedure, by accused Nos.2, 3 and 4 in

C.C.No.689/2019 on the files of Judicial First Class Magistrate Court-V, Thiruvananthapuram, arising out of Crime No.1318 of 2016 of Museum

Police Station, Thiruvananthapuram, seeking quashment of Annexur A1-FIR, Annexure-A2 final report and further proceedings thereof.

2. The prosecution case is that the 1st accused married the defacto complainant/2nd respondent herein on 19.12.2007 as per Hindu religious rites and

thereafter they resided at the family house of the 1st accused in Mavelikkara. Later she went to Abudhabi, where the 1st accused has been employed.

Prosecution case further is that at the time of marriage, parents of the defacto complainant entrusted 153 sovereigns of gold ornaments to the 1st

accused. After the marriage, 17 cents of property situated at Kalliyoor, Thiruvananthapuram, also got registered in the name of the defacto

complainant by her father. During stay, the 1st accused subjected her to physical and mental cruelty. The specific allegation is that during the month of

April, 2010, the accused brought the defacto complainant to the residence of his parents abroad and he attempted to sell the gold ornaments. When the

defacto complainant opposed the same, there arose a dispute and at this juncture, the 1st accused manhandled the defacto complainant and accused

Nos.2 to 4 encouraged the same. During the month of June, 2010, the defacto complainant returned from Abudhabi and started to reside at the family

house of the 1st accused in Mavelikkara. During the month of September, 2010, the 1st accused sold 153 sovereigns of gold ornaments, which were

given by the parents of the defacto complainant at the time of her marriage, and the 1st accused purchased Volkswagen Car bearing Registration

No.KL.31.B.9955 and the remaining amount was entrusted to the 4th accused to purchase a flat in Palakkad. Thereafter the 1st accused demanded

more dowry and accordingly as demanded by the 1st accused, Rs.29 lakh was obtained by accused Nos.2 and 3. The specific and most serious

allegation further is that during the subsistence of the marriage between the 1st accused and the defacto complainant, the 1st accused solemnised his

second marriage with one Simran on 21.05.2013 after suppressing his earlier marriage with the defacto complainant. This is the base on which

prosecution alleges commission of offences punishable under Sections 494, 498A r/w 34 of the Indian Penal Code (‘IPC’™ for short).

3. Even though the learned counsel for the petitioners argued at length to contend that cruelty alleged against the petitioners not at all made out, and

also attempted to establish that the second marriage effected by the 1st accused with Simran was not known to the petitioners, the prosecution

records do not justify his contentions.

4. The learned Public Prosecutor read out the statements of the witnesses which would suggest that the second marriage was also with the

knowledge of all the accused, including the petitioners herein and the 1st accused solemnised his second marriage with Simran during the subsistence

of the marriage between the 1st accused and the defacto complainant. Therefore, quashment of these proceedings could not be allowed and the case would go to trial.

5. Since offences punishable under Sections 494, 498A r/w 34 of IPC are well made out, prima facie, as per the prosecution allegations discussed in paragraph 2 herein above, quashment of the proceedings is liable to fail, since the matter must go to trial. 6.

Therefore, this petition is dismissed.

Registry is directed to forward a copy of this order to the jurisdictional court for information and further steps.