



2026:KER:68282

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE JOBIN SEBASTIAN

WEDNESDAY, THE 9TH DAY OF SEPTEMBER 2026/18TH BHADRA, 1948

CRL.MC NO. 228 OF 2026

CRIME NO.1124/2024 OF THALASSERY POLICE STATION, KANNUR

AGAINST THE ORDER/JUDGMENT IN CC NO.58 OF 2025 OF THE
JUDICIAL MAGISTRATE OF FIRST CLASS, THALASSERY

PETITIONERS/ACCUSED NOS. 1 TO 7:

- 1 FIROZ KUNNUMAL
 AGED 43 YEARS
 S/O ABDULLA, NARAKKAT BAITHUL NOOR,
 NANDHI, KATALUR P.O., MOODADI,
 KOZHIKODE, PIN - 673529
- 2 MARIYAM
 AGED 68 YEARS
 W/O ABDULLA, NARAKKAT BAITHUL NOOR,
 NANDHI, KATALUR P.O., MOODADI,
 KOZHIKODE, PIN - 673529
- 3 SAHEERA
 AGED 52 YEARS
 D/O ABDULLA, NARAKKAT BAITHUL NOOR,
 NANDHI, KATALUR P.O., MOODADI,
 KOZHIKODE, PIN - 673529
- 4 MUSTHAFA KUNNUMAL
 AGED 56 YEARS
 S/O ABDULLA, NARAKKAT BAITHUL NOOR,
 NANDHI, KATALUR P.O., MOODADI,
 KOZHIKODE, PIN - 673529
- 5 SAMEER KUNNUMAL
 AGED 40 YEARS
 S/O ABDULLA, NARAKKAT BAITHUL NOOR,
 NANDHI, KATALUR P.O., MOODADI,
 KOZHIKODE, PIN - 673529



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6 JALEEL KUNNUMAL
AGED 40 YEARS
S/O ABDULLA, NARAKKAT BAITHUL NOOR,
NANDHI, KATALUR P.O., MOODADI,
KOZHIKODE, PIN - 673529

7 ASANUL AMEEN
AGED 28 YEARS
S/O SAHEERA, NARAKKAT BAITHUL NOOR,
NANDHI, KATALUR P.O., MOODADI,
KOZHIKODE, PIN - 673529

BY ADVS.
SRI.AADITHYAN S.MANNALI
SHRI.ABDURAHIMAN VAYALIL PEEDIKAYIL
SHRI.NEERAJ REHMAN

RESPONDENTS/STATE & DE FACTO COMPLAINANT:

1 STATE OF KERALA
REP BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, PIN - 682031

2 SHARBANA M
AGED 37 YEARS
D/O BASHEER MAILANCHIKKAL HOUSE
GOPALPETTA, THALASSERY
KANNUR, PIN - 670101

BY ADVS.
SHRI.T.P.SAJID
SRI.K.P.MOHAMED SHAFI
SMT.SHIFA LATHEEF
SHRI.MUHAMMED HAROON A.N.
SHRI.MOHEMED FAVAS
SHRI.HASHARURAHIMAN U.
SMT.SREESHMA B. CHANDRAN
SHRI.MUHAMMED BILAL K.
SRI. NAVAS V. A., SR. PP

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
07.09.2026, THE COURT ON 09.09.2026 PASSED THE FOLLOWING:

**'C.R.'****ORDER**

This petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, "the BNSS") by accused Nos. 1 to 7 in Crime No. 1124 of 2024 of Tellicherry Police Station, Kannur City, registered for the offences punishable under Sections 406 and 498A read with Section 34 of the Indian Penal Code, 1860 (for short, "the IPC"), which is now pending as C.C. No. 58 of 2025 on the file of the Judicial First Class Magistrate Court, Thalassery.

2. The prosecution case, in brief, is as follows:

The marriage between the de facto complainant and the 1st accused was solemnized on 03.09.2007 in accordance with their religious rites and ceremonies. After the marriage, while they were residing together as husband and wife, accused Nos. 1 to 7 allegedly subjected the de facto complainant to mental and physical cruelty. It is further alleged that the 1st accused misappropriated the gold ornaments belonging to the de facto complainant. Thus, the accused are alleged to have committed the aforesaid offences.

3. Heard Sri. Aadithyan S. Mannali, the learned counsel appearing for the petitioners, Smt. Sreeshma B Chandran, the learned counsel appearing for the 2nd respondent/de facto complainant, and Sri. Navas V.A., the learned Senior Public Prosecutor.



4. The learned counsel appearing for the petitioners submitted that, even if the allegations contained in the First Information Statement (FIS) are accepted in their entirety, they do not disclose the commission of the offences alleged under Sections 406 and 498A read with Section 34 of the IPC against the petitioners. It was contended that the allegations in the FIS are vague and omnibus in nature and do not attribute any specific overt act to the petitioners so as to constitute the offences alleged against them. It was further contended that the complaint which resulted in the registration of the crime was lodged nearly seventeen years after the marriage and that there is no satisfactory explanation for such an inordinate delay. According to the learned counsel, the investigation also did not yield any independent or contemporaneous material substantiating the allegations of cruelty, harassment, dowry demand, entrustment, or misappropriation of gold ornaments. It was, therefore, submitted that the case has been falsely foisted against the petitioners and that the FIR as well as the Final Report filed pursuant thereto are liable to be quashed in exercise of the inherent jurisdiction of this Court under Section 528 of the BNSS.

5. Per contra, the learned counsel appearing for the 2nd respondent/de facto complainant submitted that there are specific allegations regarding the acts of ill-treatment and harassment committed by the petitioners and that, if the allegations are taken at their face value, they would prima facie constitute the ingredients of the offences alleged in the case. According to the learned



counsel, since the allegations prima facie disclose the commission of the offences alleged, it would not be justifiable to quash the proceedings against the petitioners at this stage.

6. The learned Senior Public Prosecutor also supported the submissions advanced by the learned counsel appearing for the 2nd respondent.

7. Before considering the rival contentions, it is apposite to note that this Court has inherent jurisdiction under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to quash criminal proceedings in appropriate cases. However, such power is extraordinary in nature and is to be exercised sparingly, cautiously, and only in cases where such intervention is necessary either to prevent abuse of the process of law or to secure the ends of justice.

8. One of the well-recognised grounds for quashing criminal proceedings is that, even if the allegations contained in the complaint or the First Information Statement are taken at their face value and accepted in their entirety, they do not disclose the commission of any offence or make out a case against the accused. At the same time, while exercising jurisdiction under Section 482 of the Code of Criminal Procedure, 1973, or Section 528 of the BNSS, as the case may be, this Court is not expected to undertake a meticulous examination of the evidence, assess the probative value of the materials collected during the investigation, or conduct a mini-trial.

9. The scope of enquiry in a petition seeking quashing of criminal proceedings is limited to examining whether the allegations, on a plain



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reading and in the light of the materials available on record, disclose the essential ingredients of the offences alleged. If the allegations raise disputed questions of fact requiring appreciation of evidence, such matters are ordinarily to be adjudicated by the trial court upon a full-fledged trial.

10. While determining the question whether the allegations made against the petitioners prima facie disclose the ingredients of the offence under Section 498A of the IPC, it is apposite to refer to the said provision, which reads as follows:

"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 purpose of this section, 'cruelty' means—

(a) any wilful 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."

11. It is, therefore, evident that one of the essential requirements for attracting Section 498A of the IPC is that the woman must have been subjected to "cruelty" by her husband or a relative of her husband. In the present case, there is no dispute that the petitioners are the husband and in-laws of the de facto complainant. The question, therefore, is whether the allegations made against them, prima facie, satisfy either of the two limbs of the Explanation to Section 498A of the IPC.

12. The first limb of the Explanation encompasses wilful conduct of



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such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to her life, limb, or physical or mental health. The second limb relates to harassment with a view to coercing the woman or any person related to her to meet an unlawful demand for property or valuable security, or harassment on account of the failure to meet such demand.

13. Thus, not every instance of harassment, disagreement, or ill-treatment between spouses would, by itself, constitute "cruelty" within the meaning of Section 498A of the IPC. The conduct alleged must fall within the scope of either of the two limbs of the Explanation to the said provision. At the same time, it cannot be said that a series of acts is invariably necessary to constitute cruelty. A single act, if sufficiently grave and of the nature contemplated by the statutory definition, may also constitute cruelty.

14. In the present case, the allegations against petitioner Nos. 2 to 7 are general and omnibus in nature. No specific overt act or particular instance of cruelty or harassment has been attributed to any of them. Likewise, there is no specific allegation regarding the entrustment of the gold ornaments to, or its misappropriation by, any of these petitioners. The materials placed on record do not disclose any specific allegation or supporting material which would satisfy the essential ingredients of the offences alleged against them. Continuation of the criminal proceedings against persons against whom only vague and bald allegations have been made would, therefore, amount to an abuse of the process of law. Even if the allegations against petitioner Nos. 2



to 7 are taken at their face value, there is no material on record which would prima facie establish the essential ingredients of the offences alleged against them. The allegations being vague, omnibus, and unsupported by any specific overt act attributable to them, are insufficient to sustain the prosecution against petitioner Nos. 2 to 7.

15. However, insofar as the 1st petitioner is concerned, the allegations against him are specific in nature and disclose, prima facie, the ingredients of the offences alleged. The truthfulness or otherwise of those allegations, as well as the evidentiary value of the materials collected during the investigation, are matters to be adjudicated by the trial court on the basis of the evidence adduced before it. At this stage, this Court cannot embark upon an enquiry into the merits of the allegations or conduct a mini-trial.

16. Therefore, this Court is of the view that the continuation of the criminal proceedings against the 1st petitioner cannot, at this stage, be said to amount to an abuse of the process of law. However, insofar as petitioner Nos. 2 to 7 are concerned, the materials available on record do not disclose the commission of the offences alleged against them. Hence, interference under Section 528 of the BNSS is warranted to that limited extent.

Accordingly, this Criminal Miscellaneous Case is allowed in part. All further proceedings against petitioner Nos. 2 to 7, who are accused Nos. 2 to 7 in C.C. No. 58 of 2025 on the file of the Judicial First Class Magistrate Court, Thalassery, arising out of Crime No. 1124 of 2024 of the Tellicherry Police



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Station, shall stand quashed. The proceedings against the 1st petitioner/accused No. 1 shall continue in accordance with law.

Sd/-
JOBIN SEBASTIAN
JUDGE

SPV



APPENDIX OF CRL.MC NO. 228 OF 2026

PETITIONER ANNEXURES

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| Annexure A1 | THE CERTIFIED COPY OF THE FIR IN CRIME
NO. 1124 OF 2024 OF TELlichERRY POLICE
STATION, KANNUR |
| Annexure A2 | THE CERTIFIED COPY OF THE FINAL REPORT
IN CRIME NO. 1124 OF 2024 OF
TELlichERRY POLICE STATION, KANNUR
DATED 30.12.2024 |