



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE JOBIN SEBASTIAN

TUESDAY, THE 11TH DAY OF AUGUST 2026 / 20TH SRAVANA, 1948

CRL.MC NO. 4321 OF 2020

AGAINST THE ORDER/JUDGMENT IN CC NO.940 OF 2020 OF
JUDICIAL MAGISTRATE OF FIRST CLASS, CHANGANACHERRY
PETITIONER/ACCUSED:

BY ADVS.

SRI.SHAIJAN C.GEORGE

SMT.SAJITHA GEORGE

RESPONDENTS/COMPLAINANT:

- 1 STATE OF KERALA,
REPRESENTED BY PROSECUTOR, HIGH COURT OF KERALA.
- 2 S.H.O., CHANGANACHERRY POLICE STATION,
KOTTAYAM, PIN-686102.
- 3

BY ADVS.

SRI.K.SHAJ

SHRI.SAJJU.S

SMT.BEENA N.KARTHA

SHRI.REN SHIBU

SMT.SHEHROON PATEL A.K.

SHRI.ISSAC MELVIN B.O.

SHRI.ALVIN JOSEPH

SMT.RIYA PHILO JOHNSON

SHRI.SAJIE SHANKAR

SMT.GISHMA P. S.

SMT.MARY HELEN A. G.

SMT.ISHMA T. B.

:2:



2026:KER:61563

SMT.FEBIN FATHIMA

SMT. MEGHA K. XAVIER, SR.PP

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
10.08.2026, THE COURT ON 11.08.2026 PASSED THE FOLLOWING:**

Shoneekapoor.com

**ORDER**

This petition has been filed by the sole accused in C.C. No.940/2020 on the file of the Judicial First Class Magistrate Court-I, Changanassery, wherein he has been charge-sheeted for the offence punishable under Section 75 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (the "JJ Act"). The petitioner seeks an order quashing the final report and all further proceedings in the said case.

2. The crux of the prosecution case is that the accused, being the father of a sixteen-year-old boy and allegedly having actual charge of and control over the said child, abandoned the child and failed to provide for his basic needs and maintenance, and thereby committed the offence punishable under Section 75 of the JJ Act.

3. Heard Sri. Shyjan C. George, the learned counsel for the petitioner, and Sri. Navas V.A., the learned Senior Public Prosecutor.

4. The learned counsel for the petitioner submitted that the petitioner is innocent of the allegations levelled against him. According to the learned counsel, even if the allegations contained in the complaint, which resulted in the registration of the case, are accepted in their entirety, no offence under Section 75 of the J.J. Act is made out against the petitioner. It was submitted that the income-generating assets of the petitioner are being enjoyed by his wife and that the minor son is residing with his wife and being maintained out of the income derived therefrom. Therefore, according to the learned counsel,



it cannot be said that the petitioner has neglected to maintain the child.

5. The learned counsel further submitted that, at no point of time, the petitioner had assaulted, abandoned or abused the child and that the present case has been foisted against him with an intention to harass him. According to the learned counsel, the petitioner's son is in the custody, care and actual charge of his wife and, therefore, the petitioner cannot be prosecuted for an offence under Section 75 of the JJ Act. On these premises, it was urged that the final report and all further proceedings pursuant thereto are liable to be quashed.

6. Per contra, the learned counsel for the third respondent opposed the petition, emphasising the serious nature of the allegations levelled against the petitioner. It was submitted that the allegation that a father had abandoned his child and neglected to provide for his basic needs and maintenance cannot be viewed lightly. According to the learned counsel, quashing the criminal proceedings in a case of this nature would send a wrong signal to society and may encourage persons similarly inclined to neglect their children.

7. Before considering the rival contentions, it is apposite to note that this Court has inherent jurisdiction under Section 482 of the Code of Criminal Procedure, which corresponds to 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 circumstances where such intervention is necessary 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 First Information Statement are taken at their face value and accepted in their entirety, they do not disclose the commission of any offence or do not make out a case against the accused. At the same time, while exercising jurisdiction under Section 482 of the Cr.P.C. or Section 528 of the BNSS, as the case may be, this Court is not expected to conduct a meticulous examination of the evidence, assess the probative value of the materials collected during investigation, or undertake 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 reading and in the light of the materials available on record, disclose the essential ingredients of the offence alleged. If the allegations raise disputed questions of fact requiring appreciation of evidence, such matters are ordinarily to be decided by the trial court after a full-fledged trial.

10. Keeping the above principles in mind, on reverting to the facts of the present case, it can be seen that the criminal law was set in motion on the basis of a private complaint filed by the wife of the petitioner before the



jurisdictional Magistrate, alleging that the petitioner had abandoned their sixteen-year-old minor son and had wilfully neglected to provide for his care and maintenance. The learned Magistrate, upon receipt of the complaint, forwarded the same to the police for investigation under Section 156(3) of the Cr.P.C. Pursuant thereto, a crime was registered and, after investigation, the police filed a final report alleging the commission of an offence punishable under Section 75 of the JJ Act.

11. The main contention taken by the learned counsel for the petitioner is that the essential ingredients of an offence under Section 75 of the J.J. Act are not disclosed by the allegations in the complaint. In order to consider the said contention, it is necessary to examine the scope and ingredients of Section 75 of the J.J. Act. Section 75 of the J.J. Act deals with cruelty to a child and, inter alia, contemplates a situation where a person having the actual charge of, or control over, a child, assaults, abandons, abuses, exposes or wilfully neglects the child in a manner likely to cause the child unnecessary mental or physical suffering. Thus, one of the essential requirements for attracting Section 75 of the J.J. Act is that the accused must have had actual charge of, or control over, the child at the relevant time. The allegation of abandonment or wilful neglect must also be considered in the context of such actual charge or control.

12. In the present case, a plain reading of the private complaint itself



indicates that the petitioner was working abroad. It is further evident from the allegations that the minor child was residing with and was under the care and custody of the petitioner's wife, who is the de facto complainant in the present case. There is no specific allegation or material to indicate that, at the relevant time, the petitioner was having actual charge of or control over the child.

13. As rightly submitted by the learned counsel for the petitioner, the mere fact that the petitioner is the father of the child, by itself, would not satisfy the statutory requirement of having actual charge of or control over the child for the purpose of Section 75 of the J.J. Act. There must be material indicating that the accused had actual charge of or control over the child and, while having such charge or control, wilfully neglected, abandoned, abused or otherwise subjected the child to the conduct contemplated under Section 75.

14. Likewise, mere non-payment of maintenance by a father, who is not shown to have actual charge of or control over the child, would not, by itself, attract Section 75 of the J.J. Act. The statutory ingredients of the offence cannot be expanded merely on the basis of the relationship between the accused and the child.

15. In the present case, the materials available on record, even if taken at their face value, do not disclose the essential ingredient that the petitioner was having actual charge of or control over the child at the relevant time. In the absence of such an essential ingredient, the prosecution under Section 75

:8:



2026:KER:61563

of the J.J. Act cannot be sustained.

In the result, this Crl.M.C. is allowed. All further proceedings against the petitioner, who is the accused in C.C. No.940/2020 pending on the file of the Judicial First Class Magistrate Court-I, Changanassery, for the offence punishable under Section 75 of the J.J. Act, stand quashed.

Sd/-

**JOBIN SEBASTIAN
JUDGE**

Vdv

APPENDIX OF CRL.MC NO. 4321 OF 2020

PETITIONER ANNEXURES

- ANNEXURE A1 A TRUE COPY OF THE COMPLAINT IN CMP NO.1390/2020 BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT-I, CHANGANACHERRY.
- ANNEXURE A2 A TRUE COPY FO THE FIR IN CRIME NO.213/2020 DATED 22/02/2020 OF CHANGANACHERRY POLICE STATION.
- ANNEXURE A3 THE CERTIFIED COPY OF THE CHARGE/FINAL REPORT IN CRIME NO.213/2020 (C.C.NO.940/2020) DATED 24/06/2020
- ANNEXURE A4 A TRUE COPY OF THE PETITION IN O.P.NO. (OTHERS)NO.349/2020 PENDING BEFORE THE FAMILY COURT,ETTUMANOOR.
- ANNEXURE A5 A TRUE COPY OF THE PETITION IN O.P.NO. (OTHERS)NO.366/2020 PENDING BEFORE THE FAMILY COURT, ETTUMANOOR.
- ANNEXURE A6 A TRUE COPY OF THE PROCEEDINGS IN C.C.N.940/2020 PENDING BEFORE THE JUDICIAL MAGISTRATE FIRST CLASS COURT-I,CHANGANACHERRY, KOTTAYAM.