



2026:KER:68865

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE JOBIN SEBASTIAN

THURSDAY, THE 10TH DAY OF SEPTEMBER 2026/19TH BHADRA, 1948

CRL.MC NO. 5128 OF 2026

AGAINST THE ORDER/JUDGMENT IN MC NO.32 OF 2025 OF
JUDICIAL MAGISTRATE OF FIRST CLASS -III, THRISSUR

PETITIONER/APPELLANT/RESPONDENT:

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BY ADVS.
SHRI.SHIBIN K.F.
SMT.RENJITHA B.

RESPONDENT/RESPONDENT/PETITIONER:

BY ADVS.
SRI.DINESH MATHEW J.MURICKEN
SRI.VINOD S. PILLAI
SMT.NAYANA VARGHESE
SRI.N.R.SANGEETHARAJ
SHRI.JERRY PETER
SRI.NAVAS V.A SENIOR PP

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 07.09.2026, THE COURT ON 10.09.2026 PASSED THE FOLLOWING:

**“C.R.”****ORDER**

This Criminal Miscellaneous Case has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, “the BNSS”) by the respondents in M.C. No.32/2025 pending before the Judicial First Class Magistrate Court-III, Thrissur, seeking to quash the proceedings in the said M.C.

2. The essential facts necessary for the disposal of this Criminal Miscellaneous Case are as follows:

The petitioners herein are the respondents in M.C. No.32/2025 pending on the file of the Judicial First Class Magistrate Court-III, Thrissur, filed by the respondent herein under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (for short, “the PWDV Act”), seeking various reliefs under the said Act. The 1st petitioner is the husband of the respondent, and the 2nd petitioner is her mother-in-law. According to the petitioners, the proceedings under the PWDV Act have been initiated by raising some false and frivolous allegations and with an ulterior motive to harass them. It is contended that, apart from certain bald allegations of threat, no specific acts of domestic violence have been alleged against the petitioners. It is further contended that, if the allegation of threat were true, the respondent would have approached the police, and the failure to



lodge any such complaint itself demonstrates the falsity of the allegations. It is also contended that the present proceedings under the PWDV Act were instituted while various other disputes between the parties were pending before the Family Court and other forums and that the present proceedings were initiated as a pressure tactic. According to the petitioners, the proceedings are therefore an abuse of the process of law and are liable to be quashed.

3. Heard Sri.Shibin K.F., the learned counsel for the petitioners, and Sri.Dinesh Mathew J. Muricken, the learned counsel for the respondent.

4. The learned counsel for the petitioners contended that, though the respondent had allegedly lodged complaints before various authorities against the petitioners, she had not approached the jurisdictional Magistrate by filing an application under Section 12 of the PWDV Act during that period. According to the learned counsel, this circumstance indicates that the present proceedings are an attempt to pressurise and harass the petitioners. It was further contended that, although the respondent alleges that she was subjected to acts of domestic violence in the matrimonial home, there is an unexplained delay of about six years in invoking the jurisdiction of the Magistrate under the PWDV Act after she was allegedly ousted from the matrimonial home and separated from the 1st petitioner. According to the learned counsel, such delay casts serious doubt on the genuineness of the allegations. The learned counsel for the petitioners



further submitted that a false case under the Protection of Children from Sexual Offences Act, 2012 (for short, "the POCSO Act") was caused to be registered against the 1st petitioner by using their child. It was submitted that, after investigation, the police filed a refer report stating that the allegations were false. Though the respondent thereafter sought further investigation and the same was permitted, the report submitted pursuant to the further investigation also concurred with the earlier conclusion of the investigating agency. The 1st petitioner thereafter instituted proceedings before the Family Court, Thrissur, seeking compensation in respect of the alleged false POCSO case. According to the learned counsel, the present proceedings under Section 12 of the PWDV Act were instituted only after the respondent received notice in the said proceedings before the Family Court. It was therefore contended that the timing of the proceedings clearly indicates that the present case is retaliatory in nature and constitutes an abuse of the process of law. On the aforesaid grounds, the learned counsel sought quashing of the proceedings in limine.

5. Per contra, the learned counsel for the respondent contended that the allegations disclose a continuing cause of action and that the contention regarding a delay of six years in approaching the Magistrate is factually incorrect. It was pointed out that there is a specific allegation that the respondent was subjected to an act of domestic violence even in May 2025. It was further submitted that the PWDV Act does not prescribe any



period of limitation for an aggrieved person to approach the Magistrate under Section 12 seeking the reliefs available under the statute. The learned counsel submitted that, having regard to the social circumstances prevailing in India, a woman subjected to ill-treatment in the matrimonial home may, for various reasons, including the welfare of her children, preservation of the matrimonial relationship and the hope of reconciliation, refrain from immediately approaching the police or the court. Therefore, the mere fact that the respondent did not initially invoke the jurisdiction of the Magistrate under Section 12 of the PWDV Act cannot, by itself, lead to an inference that the alleged acts of domestic violence did not occur. The learned counsel further submitted that, following the alleged acts of domestic violence, the respondent had approached various authorities complaining of the ill-treatment and harassment allegedly meted out to her. The fact that she had not immediately filed an application under Section 12 of the PWDV Act, according to the learned counsel, cannot by itself discredit the allegations. With regard to the POCSO case, it was submitted that the case was registered on the basis of a complaint made by the daughter. Though the police subsequently filed a refer report, the respondent challenged the acceptance of the said report before this Court by filing a Criminal Miscellaneous Case, which is still pending consideration. It was therefore contended that the conclusion of the police in the refer report cannot, at this stage, be treated as conclusive of the falsity of the



allegations. The learned counsel also submitted that, although the present proceedings under the PWDV Act were instituted after the 1st petitioner initiated proceedings before the Family Court seeking compensation in relation to the POCSO case, the subsequent institution of the proceedings under the PWDV Act would not, by itself, establish that the allegations are false or that the proceedings were instituted as a retaliatory measure. It was further contended that, while exercising jurisdiction under Section 528 of the BNSS, this Court is not expected to undertake a threadbare examination of the materials or conduct a mini-trial for determining the truth or otherwise of the allegations. According to the learned counsel, the question as to whether the allegations disclose acts of domestic violence and whether the respondent is entitled to the reliefs claimed under the PWDV Act are matters to be considered by the jurisdictional Magistrate on the basis of the evidence and materials placed before that court. It was therefore submitted that the present petition is premature and liable to be dismissed.

6. Undisputedly, this Court has inherent jurisdiction under Section 528 of the BNSS, which corresponds to Section 482 of the Code of Criminal Procedure, 1973, to pass appropriate orders to prevent abuse of the process of court or otherwise to secure the ends of justice. However, such jurisdiction is extraordinary in nature and has to be exercised sparingly, cautiously and in exceptional circumstances. The power cannot be



exercised merely because a person against whom proceedings under the PWDV Act have been initiated raises a contention that the allegations contained in the application are false or frivolous. In **Vijayalekshmi Amma V. K. (Dr.) v. Bindu v. and others** [2010 (1) KLT 79], this Court held that a petition under Section 12 of the PWDV Act seeking reliefs thereunder is predominantly civil in nature and that, ordinarily, the High Court should not invoke its inherent jurisdiction under Section 482 of the Cr.P.C. to quash such proceedings. It was further held that a party against whom proceedings have been initiated under the Act has an adequate remedy before the jurisdictional Magistrate and, therefore, interference by the High Court is ordinarily unwarranted. However, in **Shaurabh Kumar Tripathi v. Vidhi Rawal**, [2025 KHC Online 6517] the Hon'ble Supreme Court held that the High Court can exercise its power under Section 482 of the Cr.P.C. to quash proceedings emanating from an application under Section 12(1) of the PWDV Act pending before the Magistrate. At the same time, having regard to the object and purpose of the PWDV Act, the Hon'ble Supreme Court cautioned that such power has to be exercised with due care and circumspection and that interference would ordinarily be warranted only in cases of gross illegality or where continuation of the proceedings would result in manifest injustice.

7. Thus, it is clear that the inherent power under Section 528 of the BNSS, which corresponds to Section 482 of the Cr.P.C., is available in



appropriate cases to quash proceedings arising out of an application under Section 12 of the PWDV Act. However, such power is to be exercised only where the materials on record clearly demonstrate that continuation of the proceedings would amount to an abuse of the process of law or that interference is necessary to secure the ends of justice. The mere existence of disputed questions of fact or the assertion that the allegations are false would not ordinarily justify such interference.

8. Keeping the above principles in mind, this Court shall consider the contentions raised by the petitioners. One of the principal contentions is that there is considerable delay in invoking the jurisdiction of the Magistrate under Section 12 of the PWDV Act. According to the petitioners, the respondent had been living separately for several years and there is no satisfactory explanation for the delay that occurred in filing the petition under the PWDV Act. The respondent, on the other hand, contends that the allegations of domestic violence are not confined to the period preceding her separation and that there is a specific allegation of an incident of domestic violence even in May 2025.

9. While considering the said contention, it is to be noted that there is no provision under the PWDV Act prescribing a specific period within which an aggrieved person must approach the Magistrate under Section 12 seeking the reliefs contemplated under the Act. Therefore, mere delay in approaching the Magistrate cannot, by itself, constitute a ground for



quashing the proceedings, particularly when the allegations are stated to include acts of domestic violence committed at a later point of time.

10. The effect of the delay, the explanation offered for the same and the circumstances in which the respondent allegedly remained silent or approached other authorities are matters which may have relevance while appreciating the evidence. Such circumstances may also be taken into consideration by the learned Magistrate while adjudicating on the veracity of the allegations and the reliefs claimed under the PWDV Act. However, at this stage, the delay, by itself, is not sufficient to conclude that the allegations are false or that the proceedings constitute an abuse of the process of law. Likewise, the circumstances highlighted by the learned counsel for the petitioners relating to the registration of the POCSO case, the refer report submitted by the police, the subsequent investigation and the proceedings initiated by the respondent challenging the acceptance of the refer report are matters which may be relied upon by the parties before the jurisdictional Magistrate, subject to their relevance in accordance with law.

11. Similarly, the fact that the proceedings under the PWDV Act were instituted after the 1st petitioner initiated proceedings before the Family Court cannot, by itself, establish that the present proceedings are retaliatory or malicious. The timing of the proceedings may constitute a circumstance relevant for appreciation of the evidence, but it is not, in the



facts and circumstances of the present case, sufficient by itself to conclude that the proceedings under the PWDV Act are an abuse of the process of law.

12. The contention that the respondent had earlier approached various authorities but had not filed an application under Section 12 of the PWDV Act also cannot, by itself, justify quashing of the proceedings. The reasons for not invoking the statutory remedy earlier, the nature of the complaints allegedly made before other authorities and the conduct of the parties are all matters which can be considered by the jurisdictional Magistrate on the basis of the materials and evidence placed before that court.

13. It is also necessary to bear in mind that, while exercising jurisdiction under Section 528 of the BNSS, this Court is not expected to embark upon a meticulous examination of the allegations or undertake a mini-trial to determine their truth or otherwise. In the petition filed by the aggrieved person, specific allegations which constitute acts of domestic violence are seen attributed against the petitioners. Whether those allegations are true or whether they ultimately establish acts of domestic violence are matters to be adjudicated by the jurisdictional Magistrate on the basis of the evidence and materials placed before that court. This Court, in exercise of its inherent jurisdiction, cannot undertake such an adjudication at this stage.



14. In the aforesaid circumstances, I find no sufficient ground to exercise the inherent jurisdiction under Section 528 of the BNSS to quash the proceedings against the petitioners.

In the result, this Criminal Miscellaneous Case stands dismissed.

Sd/-

**JOBIN SEBASTIAN
JUDGE**

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APPENDIX OF CRL.MC NO. 5128 OF 2026

PETITIONER ANNEXURES

- Annexure-A1** A TRUE COPY OF THE PETITION IN MC NO. 32/2025 DATED 27-10-2025 FILED BY THE RESPONDENT
- Annexure-A2** A TRUE COPY OF THE OP NO. 12/2017 DATED 04-01-2017 FILED BY THE RESPONDENT
- Annexure-A3** A TRUE COPY OF THE ORDER DATED 19-01-2017 PASSED BY THE FAMILY COURT, THRISSUR
- Annexure-A4** A TRUE COPY OF THE OP NO.2145/2019 DATED 26-10-2019 FILED BY THE RESPONDENT HEREIN BEFORE THE FAMILY COURT, THRISSUR
- Annexure-A5** A TRUE COPY OF THE OP NO. 2468/2019 DATED 07-12-2019 FILED BY THE 1ST PETITIONER BEFORE THE FAMILY COURT, THRISSUR
- Annexure-A6** A TRUE COPY OF THE JUDGMENT DATED 24-06-2021 IN OP(FC) NO. 156/2021 ON THE FILES OF THE HIGH COURT OF KERALA
- Annexure-A7** A TRUE COPY OF THE MC NO. 802/2019 DATED 21-12-2019 FILED BY THE RESPONDENT
- Annexure-A8** A TRUE COPY OF THE FINAL REPORT, DATED 16-08-2023, IN CRIME NO. 160/2023 OF VADAKKEKARA POLICE STATION
- Annexure-A9** A TRUE COPY OF THE ORDER, DATED 02-12-2025, OF THE ADDITIONAL DISTRICT AND SESSIONS COURT, ERNAKULAM FOR THE TRIAL OF CASES RELATING TO ATROCITIES AND SEXUAL VIOLENCE AGAINST WOMEN AND CHILDREN IN CRL.MP NO.1826/2025 AND RC 3/2023 IN CRIME NO. 160/2023 OF VADAKKEKARA POLICE STATION
- Annexure-A10** A TRUE COPY OF THE OP NO. 993/2022 DATED 13-04-2022 FILED BY THE 1ST PETITIONER FOR DECREE OF DIVORCE BEFORE THE FAMILY COURT, THRISSUR
- Annexure-A11** A TRUE COPY OF THE OP NO. 1049/2022 DATED NIL FILED BY THE RESPONDENT FOR DECREE OF DIVORCE BEFORE THE FAMILY COURT, THRISSUR
- Annexure-A12** A TRUE COPY OF THE JUDGMENT, DATED 22-08-2025, IN OP(FC) NO. 77/2024 ON THE FILES OF THE HIGH COURT OF KERALA
- Annexure-A13** A TRUE COPY OF THE OP NO. 746/2024, DATED 03 04-2024, FILED BY THE PETITIONER CLAIMING COMPENSATION BEFORE THE FAMILY COURT, THRISSUR