

Bency Vs. Preceline George

Bency Vs. Preceline George

SooperKanoon Citation : sooperkanoon.com/903495

Court : Kerala

Decided On : Jun-04-2010

Reported in : 2010(2)KLJ993

Judge : V. Ramkumar, J.

Acts : Indian Penal Code (IPC) - Sections 34 and 498A; ;[Code of Criminal Procedure \(CrPC\) , 1973](#) - Section 156(3)

Appeal No. : Crl. M.C. No. 1671 of 2010

Appellant : Bency

Respondent : Preceline George

Advocate for Def. : Santhan V. Nair,; V.V. Mithun, Advs. and; C.M. Nazar

Advocate for Pet/Ap. : P.B. Sahasranaman,; T.S. Harikumar and; K. Jagadeesh

Disposition : Appeal allowed

Judgement :

ORDER

V. Ramkumar, J.

1. Petitioner is the wife of the first respondent. Their marriage was solemnized on 7.6.2009. Thereafter the marital partners fell apart. The wife now seeks a direction

to the fourth respondent, Sub Inspector of Police, Thrikkakara Police Station to investigate Annexure - A1 complaint registered as Crime No. 639/2010 for an offence punishable under Section 498A read with Section 34 I.P.C. and a direction restraining the fifth respondent, Sub Inspector of Police, Mannarcaud from conducting any investigation consequent on the transfer of the F.I.R by the Thrikkakara Police to the Mannarcaud Police.

2. Annexure - A1 complaint filed by the petitioner before the J.F.C.M Court-I, Aluva was forwarded by the Magistrate to the Thrikkakara police under Section 156(3) Cr.P.C. The Thrikkakara police registered a case as Crime No. 639/2010 for an offence punishable under Section 498A read with Section 34 I.P.C. On 9.4.2010 the learned Magistrate received from the Thrikkakara police the F.I.R along with Annexure - A1 complaint. Thereafter on 22.4.2010 the Sub Inspector of police, Thrikkakara submitted a report before the Aluva Magistrate stating that since the occurrence took place within the limits of the Mannarcaud Police Station the case diary has been transferred to the Mannarcaud Police and requested the Magistrate to forward the F.I.R and the complaint to the Mannarcaud Police Station.

3. Apart from the fact that going by the allegations in Annexure A1 complaint, part of the occurrence took place within the local limits of the Thrikkakara Police Station and therefore it was perfectly legal for the Thrikkakara Police to conduct the investigation Vide Biju Purushothaman v. State of Kerala 2008 (3) KLT 85, in the light of the decision reported in Rasiklal Dalpatram Thakkar v. State of Gujarat and Ors. (2010) 1 SCC 1 it was not permissible for the Thrikkakara Police to transfer the F.I.R to another Police Station for the reason that the Thrikkakara Police to which the complaint was forwarded under Section 156(3) Cr.P.C. has no territorial jurisdiction to investigate the offence.

4. This Criminal M.C is accordingly allowed directing the fifth respondent, Sub Inspector of Police, Mannarcaud to re-transfer the records in Crime No. 327/2010 of that police station to Thrikkakara Police Station. The fourth respondent, Sub Inspector of Police, Thrikkakara is directed to thereafter complete the investigation in Crime No. 639/2010 as originally filed and file a final report before the J.F.C.M Court-I, Aluva without any more delay.

