

Amina, Vs. the Deputy Superintendent of Police and ors.

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Court : Kerala

Decided On : Jul-12-2010

Judge : K.M. Joseph and; M.L. Joseph Francis, JJ.

Acts : Indian Penal Code (IPC) - Sections 34 and 498A; ;Code of Criminal Procedure (CrPC) - Sections 156(3) and 160

Appeal No. : W.P. (C) No. 20944 of 2010 (P)

Appellant : Amina,; Usman S/O. Hamza,; Asiya W/O. Rasheed And; Fasila W/O. Usus A.H.

Respondent : The Deputy Superintendent of Police and ors.

Advocate for Def. : No Appearance

Advocate for Pet/Ap. : Alan Papali, Adv.

Judgement :

K.M. Joseph, J.

1. Petitioners have approached this Court seeking the following reliefs:

i. to issue a writ in the nature of mandamus, order or direction directing the respondents 1 and 2 not to threaten and harass the petitioners and their family members at the instance of respondents 3 to 6.

ii. to issue a writ in the nature of mandamus, commanding the respondents 1, 2 and 7 to grant adequate and meaningful police protection to the life of the petitioners from the threat of respondents 4 to 6.

2. Briefly put, the case of the petitioners is as follows:

Petitioners are mother, brother, sister and wife of Unus A.H who married the 3rd respondent. There are various allegations made in paragraph 2 of the writ petition and in substance it is stated that the relationship between the 1st petitioner's son Unus A.H and the 3rd respondent was strained. He pronounced Talak. It is communicated by Ext.P1. The 3rd respondent complained of commission of offence under Section 498A read with Section 34 of Indian Penal Code against the 1st petitioner and her son and daughter and no crime was registered. Subsequently, a private complaint was filed before the Judicial First Class Magistrate-II, Kollam which is referred under Section 156(3) of the Cr.P.C. Crime was registered. Anticipatory bail was granted by Ext.P2. Petitioners moved Criminal M.C. to quash the F.I.R. Ext.P3 is the order dated 18.6.2010 by which stay is extended. The 1st petitioner's son filed writ petition complaining harassment and culminated in Ext.P4 judgment. At present petitioners are before this Court complaining of harassment.

3. Learned Government Pleader who got instruction in the matter would submit that the stay order granted in CrI.M.C. 1335/2010 had expired on 20.6.2010 and the order extending stay was not produced and that on 28.6.2010 the Sub Inspector of Police had questioned the Secretary of the Mukra Palli Hanafi Jamia Masjid and statement was recorded. Neither the petitioners nor the family members were summoned for questioning and Ext.P3 order was produced on 7.7.2010. He would submit that there can be no question of harassment and the petitioners will not be harassed and that as and when questioning becomes possible and necessary it shall be done only after issuing notice under Section 160 Cr.P.C. We record the said submission and close the writ petition.