



2025:KER:85488

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE C.PRATHEEP KUMAR

TUESDAY, THE 11TH DAY OF NOVEMBER 2025 / 20TH KARTHIKA, 1947

CRL.MC NO. 8111 OF 2025

CRIME NO.473/2018 OF Sreekrishnapuram Police Station, Palakkad

SC NO.1154 OF 2023 OF I ADDITIONAL SESSIONS COURT,

PALAKKAD

PETITIONER(S)/1ST ACCUSED

JISSY S, AGED 45 YEARS
W/O. M K MANIKANDAN, RESIDING AT MANOJ VILLA,
SREEKRISHNAPURAM, OTTAPPALAM TALUK, PALAKKAD
DISTRICT, PIN - 679513

BY ADVS.
SHRI.JACOB SEBASTIAN
SMT.SHAMSEERA. C.ASHRAF
SHRI.WINSTON K.V
SMT.ANU JACOB
SMT.ANJANA KRISHNAN

RESPONDENT(S)/STATE

STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM DISTRICT; THROUGH THE STATION HOUSE
OFFICER, SREEKRISHNAPURAM POLICE STATION, PALAKKAD
DISTRICT, PIN - 682031

OTHER PRESENT:

SR.PP-SRI.A.VIPIN NARAYAN

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON
11.11.2025, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:



C.R.

ORDER

Dated : 11th November, 2025

The 1st accused in S.C.1154 of 2023 on the file of the First Additional Sessions Court, Palakkad arising out of crime No.473 of 2018 of Sreekrishnapuram police station, preferred this petition under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (in short, BNSS), praying for quashing all further proceedings against him. The offences alleged against the petitioner along with the other accused persons are under Sections 75 and 79 of the Juvenile Justice (Care and Protection of Children) Act (In short, JJ Act).

2. The prosecution case is that the accused persons 2 and 3, with the intention to make profit, brought CWs 6, 7, 8, 10 to 18 from Jharkhand and Bihar and engaged them for labour in the rubber band manufacturing unit by name 'Classic Rubbers' conducted by the 1st accused in building No.12/237 of Sreekrishnapuram panchayat, during the period from 18.1.2018 till 19.6.2018 and subjected them to work in unsafe atmosphere and thereby they alleged to have committed the aforesaid offences.

3. The learned counsel for the petitioner would argue that though the petitioner is the licensee of the above industrial unit, it is being run by accused persons 2 and 3 and even as per the prosecution



case, they were engaged by accused persons 2 and 3, that the petitioner had no role in engaging them for the work and therefore, he prayed for quashing all further proceedings against the petitioner. Further, the learned counsel would argue that even as per the allegations raised in the final report, the offences alleged under Section 75 and 79 of the JJ Act are not made out against the petitioner.

4. On the other hand, the learned Senior Public Prosecutor Sri.Vipin Narayan strongly opposed the prayer for quashing the proceedings and prayed for dismissing the petition.

5. Now the point that arises for consideration is the following :-

Whether the allegations against the petitioner makes out the offences under Section 75 and 79 of the JJ Act ?

6. According to the learned counsel for the petitioner, though the petitioner is the licensee of the rubber band manufacturing unit, it is being run by accused persons 2 and 3. Further, according to him, even as per the statements given by the child witnesses, the offences alleged under Section 75 and 79 of the JJ Act are not made out against the petitioner.

7. For the purpose of convenience, Sections 75 and 79 of the JJ Act are extracted below for reference :

75. Punishment for cruelty to child. *Whoever, having the*



actual charge of, or control over, a child, assaults, abandons, abuses, exposes or wilfully neglects the child or causes or procures the child to be assaulted, abandoned, abused, exposed or neglected in a manner likely to cause such child unnecessary mental or physical suffering, shall be punishable with imprisonment for a term which may extend to three years or with fine of one lakh rupees or with both:

Provided that in case it is found that such abandonment of the child by the biological parents is due to circumstances beyond their control, it shall be presumed that such abandonment is not wilful and the penal provisions of this section shall not apply in such cases.

Provided further that if such offence is committed by any person employed by or managing an organisation, which is entrusted with the care and protection of the child, he shall be punished with rigorous imprisonment which may extend up to five years, and fine which may extend up to five lakhs rupees.

Provided also that on account of the aforesaid cruelty, if the child is physically incapacitated or develops a mental illness or is rendered mentally unfit to perform regular tasks or has risk to life or limb, such person shall be punishable with rigorous imprisonment, not less than three years but which may be extended up to ten years and shall also be liable to fine of five lakhs rupees.

79. Exploitation of a child employee. *Notwithstanding anything contained in any law for the time being in force, whoever ostensibly engages a child and keeps him in bondage for the purpose of employment or withholds his earnings or*



uses such earning for his own purposes shall be punishable with rigorous imprisonment for a term which may extend to five years and shall also be liable to fine of one lakh rupees.

Explanation. - For the purposes of this section, the term "employment" shall also include selling goods and services, and entertainment in public places for economic gain.

8. The learned counsel for the petitioner has relied upon the decision of the Hon'ble Supreme Court in **Narang S.C. v. State (NCT of Delhi) 2025 KHC 6483** and the decision of this court in **Nizamudhin A. v. Station House Officer, Kannur Town Station and Another, 2017 (3) KHC 790** in support of his argument. In the decision in **Nizamudhin** (supra) this Court held in paragraph 17 as follows :-

"Having gone through the entire materials collected by the prosecution, I am satisfied that there is absolutely no allegation or material before the court to indicate that the child was kept in bondage by the petitioner for the purpose of employment. There is also no material or allegation to the effect that the petitioner withheld the earnings of the child or used her earnings for his own purpose. In the said circumstances, merely because there is allegation that the victim was engaged in the house of the petitioner as a maid servant, it cannot be said that there are ingredients to constitute the offence under Section 79 of the Act, particularly when the victim is aged above 14 years. It may also be noted that Article 24 of the Constitution of India does not prohibit the employment of children above the age of 14 years."

9. In the decision in **Narang** (supra), in paragraph 8 the Apex



Court held thus :-

“On a plain reading of the first part of S.75 of the JJ Act, a person who can be punished for cruelty to a child must be shown to have either the actual charge of the child or control over the child. “

10. Therefore, in order to attract the offence under Section 75 J.J.Act, it is to be proved that the accused was in actual charge of the child or control over the child. Further, in order to attract the offence under Section 79 J.J. Act, the child should have been kept in bondage by the accused or the earnings of the child should have been used by the accused, for his own purpose.

11. In the statement given by CW1, it is not stated that he has seen the accused persons engaging any of the children for labour. CW6, one of the children aged 14, stated that he was engaged for work by the 3rd accused, on a monthly wage of Rs.6000/-. CW7 aged 10 stated that he came along with his parents from Bihar and that his parents alone are working there and that he was not engaged for any labour. CW8 aged 15 stated that he was brought by the 3rd accused Rajesh and that he used to receive wages for the work done. CW9 aged 17 also stated that he was working for the 2nd accused and that he was brought by the 3rd accused and he was regularly paid for the work by the 2nd accused. CW10 aged 15 also stated that he was brought by the 3rd accused and he regularly used to



receive wages for his labour. CW11 aged 15, CW12 aged 16, CW13 aged 12, CW15, CW16 aged 17, CW17 aged 16, CW18 aged 17 also had given similar statements. As per the statement of CW14 aged 11, he came along with his parents and that he is not doing any work there.

12. Even as per the final report, though the petitioner is the licensee of the rubber band manufacturing unit named 'Classic Rubbers', the minors were engaged not by the petitioner, but by the accused persons 2 and 3. On a perusal of the statements given by the minor victims it is revealed that they were brought either by their parents or by Rajesh, the 3rd accused and were engaged for the labour by the 2nd accused. CWs 7 and 14 stated that they were not engaged for any work and that they only accompanied their parents who are working there. From the statements of the remaining child witnesses also it is revealed that, it was the 3rd accused who brought them to Kerala, they were engaged by the 2nd accused and they are being paid for the work done. Though they complained that the chemicals used are allergic, none of them stated about any harassment, non-payment of wages or any other problem including bonded labour, at their place of work. Therefore, the offence under Section 79 of the JJ Act is not attracted in this case, against the petitioner

13. Since in the instant case none of the children stated that they were engaged for any work by the petitioner or that they are under the



control of the petitioner, the offence under Section 75 of the JJ Act also is not attracted in this case, against the petitioner. Since the allegations against the petitioner does not amount to offences under Sections 75 and 79 of the JJ Act, no useful purpose will be served in continuing the proceedings against the petitioner and as such further proceedings against the petitioner is liable to be quashed by allowing this Crl.M.C. Point answered accordingly.

In the result, this Crl. M.C is allowed. All further proceedings against the petitioner alone in S.C.1154 of 2023 on the file of the First Additional Sessions Court, Palakkad arising from crime No.473 of 2018 of Sreekrishnapuram police station, stands quashed under section 528 of B.N.S.S.

Sd/-

C.Pratheep Kumar, Judge



APPENDIX

PETITIONER ANNEXURES

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| Annexure-A1 | A TRUE COPY OF THE AGREEMENT OF
LICENSE ENTERED INTO BETWEEN THE
PETITIONER AND THE SECOND ACCUSED
DATED 27.03.2016. |
| Annexure-A2 | A CERTIFIED COPY OF THE FINAL REPORT
DATED 27.10.2018 IN CRIME NUMBER
473/2018 OF THE SREEKRISHNAPURAM
POLICE STATION, PALAKKAD DISTRICT. |