

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE G.GIRISH

Tuesday, the 1st day of July 2025 / 10th Ashadha, 1947

CRL.MC NO. 5751 OF 2025(FILING NO.)

ORDER DATED 05.10.2024 IN CMP 661/2024 IN MC 68/2024 OF GRAMA NYAYALAYA,
VELLANADU, THIRUVANANTHAPURAM,

PETITIONER(S)/RESPONDENT:

TITUS, AGED 59 YEARS, S/O NESAN NADAR, BINOY BHAVAN,
PONNEDUTHAKUZH, URIYACODE.P.O, PERUMKULAM VILLAGE, KATTAKADA TALUK,
THIRUVANANTHAPURAM, PIN - 695543.

BY ADV M.R.SARIN

RESPONDENT(S)/STATE/COMPLAINANT:

1. STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, PIN - 682031.
2. MERRY PUSHAPAM, AGED 55 YEARS, W/O TITUS, BINOY BHAVAN,
PONNADATHUKUZH, URIYACODE.P.O, PERUMKULAM VILLAGE, KATTAKADA TALUK,
THIRUVANANTHAPURAM, PIN - 695543.

PUBLIC PROSECUTOR FOR R1

This Un.Numbered Criminal Misc. case---/2025 (Filing.No.5751/2025)
having come up for orders on 01.07.2025, the court on the same day passed
the following:



(P.T.0)

Unnumbered Crl.M.C. of 2025 (Filing No.5751 of 2025)

1

G.GIRISH, J.

Unnumbered Crl.M.C. of 2025 (Filing No.5751 of 2025

Dated this the 1st day of July, 2025

ORDER

Annexure A3 interim order passed by the Grama Nyayalaya, Vellanadu is under challenge in this petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

2. The Registry has noted a defect that the maintainability of this petition under Section 528 of BNSS has to be looked into since appeal is provided under Section 29 of the Protection of Women from Domestic Violence Act, 2005.

3. Heard the learned counsel for the petitioner.

4. In **Vijayalekshmi Amma V.K.(Dr.) & Anr v. Bindu V and Others [2010 (1) KHC 57]**, a learned Single Judge of this Court has held that the extra ordinary inherent powers of this Court under Section 482 Cr.P.C. cannot be exercised to quash the interim orders passed by Magistrates under Sections 18 to 23 of PWDV Act, since such an order is neither necessary to give effect to any order under the Code nor to prevent abuse of the process of any court or to secure the ends of justice. In **Naresh Potteries (M/s.) V. M/s. Aarti Industries**

[2025 KHC 6001], the Hon'ble Supreme Court has reiterated the law that inherent powers of this Court under S.482 of Cr.P.C. should be exercised sparingly and with great caution and further that inherent powers should not be used to interfere with the jurisdiction of the lower courts or to scuttle a fair investigation or prosecution.

5. The learned counsel for the petitioner has brought to my notice the decision of the Apex Court in ***Shaurabh Kumar Tripathi v. Vidhi Rawal* [2025 (4) KHC SN 5]** and argued that petition under Section 482 Cr.P.C. is maintainable as against the orders passed under the provisions of PWDV Act by the Magistrates.

6. In the aforesaid decision, it has been held by the Apex Court in Paragraph Nos.35 and 36 as follows:

35. When it comes to exercise of power under Section 482 of the Cr.PC in relation to application under Section 12(1), the High Court has to keep in mind the fact that the DV Act, 2005 is a welfare legislation specially enacted to give justice to those women who suffer from domestic violence and for preventing acts of domestic violence. Therefore, while exercising jurisdiction under Section 482 of the Cr.P.C for quashing proceedings under Section 12(1), the High Court should be very slow and circumspect. Interference can be made only when the case is clearly of gross illegality or gross abuse of the process of law. Generally, the High Court must adopt a hands-off approach while dealing with proceedings

under Section 482 for quashing an application under Section 12(1). Unless the High Courts show restraint in the exercise of jurisdiction under Section 482 of the Cr.P.C while dealing with a prayer for quashing the proceedings under the DV Act, 2005, the very object of enacting the DV Act, 2005, will be defeated.

36. We must also note here that against an order passed by a learned Magistrate, there is an appeal provided under Section 29 to the Court of Session. In contrast, generally, there is no remedy of appeal available against an order taking cognizance of an offence or an order issuing process. This is another reason why the High Court should exercise caution when exercising its inherent jurisdiction to quash proceedings under Section 12 of the DV Act, 2005.

7. While exercising the jurisdiction under Section 482 Cr.P.C for quashing the proceedings, it is made clear by the Apex Court in the aforesaid decision that the High Court should be very slow and circumspect in interfering with the orders passed under Section 12(1) of the PWDV Act. It is further observed thereunder, that unless the court show restraint in exercising the jurisdiction under Section 482 Cr.P.C, while dealing with the prayer for quashing proceedings under the PWDV Act, 2005, the very object of enacting the PWDV Act, 2005, will be defeated.

8. The essence of the law laid down in the

aforesaid decision is that only in cases where there is manifest illegality and blatant irregularity of the proceedings, the High Court will be justified in exercising the jurisdiction under Section 482 Cr.P.C. to unsettle the orders passed by the Magistrate under the provisions of the PWDV Act.

9. As far as the present case is concerned, Annexure A3 interim order passed by the learned Magistrate, cannot be said to be one of gross illegality or irregularity. The petitioner could very well approach the same court seeking order, modifying or vacating the aforesaid order if there are sufficient reasons. That apart, appeal is provided under Section 29 of the PWDV Act against the aforesaid order.

10. In that view of the matter, it is not possible for this Court to exercise the inherent powers under Section 528 of the BNSS to interfere with Annexure A3 interim order passed by the learned Magistrate. The defect noted by the registry is found sustainable.

The Registry shall return the petition to the petitioner.

sd/

G.GIRISH, JUDGE

jm/

APPENDIX OF CRL.MC 5751/2025(Filing No.)

Annexure A3

**THE TRUE COPY OF THE ORDER IN CMP NO 661/2024 IN M.C
68/2024 BEFORE THE HONOURABLE VELLANAD GRAMA NYAYYALA
DATED 5.10.2024**

