



C.R

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS
THURSDAY, THE 1ST DAY OF AUGUST 2024 / 10TH SRAVANA, 1946
WP(CRL.) NO. 276 OF 2022
AGAINST THE ORDER/JUDGMENT DATED IN MC NO.5 OF 2022 OF
GRAMA NYAYALAYA, VELLANADU, THIRUVANANTHAPURAM.

PETITIONER:

SHIYAS S
AGED 29 YEARS
SAJIN MANZIL, MARUTHARATHALAVILA, PRAVACHAMBALAM,
NEMOM P.O, THIRUVANANTHAPURAM., PIN - 695020

BY ADVS.
S.SUNIL MAURYAN
G.N.NISHA NAIR

RESPONDENTS:

1 STATE OF KERALA
HIGH COURT OF KERALA
ERNAKULAM, PIN - 682031

2 NIMA NISHAR
AGED 24 YEARS
NIMAZ MANZIL, ALAMUKKU, NEAR MASJID, POOVACHAL
P.O, THIRUVANANTHAPURAM., PIN - 695575

ADDL.R3 THE SECRETARY
MINISTRY OF LAW AND JUSTICE, GOVERNMENT OF INDIA

ADDL.R4 THE REGISTRAR GENERAL
HIGH COURT OF KERALA, ERNAKULAM. ARE SUO MOTU
IMPLEADED AS ADDL. R3 & R4 VIDE ORDER DATED
25/03/2022 IN WP(CRL) 276/2022.

BY ADVS.
PUBLIC PROSECUTOR
S.NIKHIL SANKAR
B.G.HARINDRANATH
SUVIN R MENON
AMITH KRISHNAN H



WP(CRL.) NO. 276 OF 2022

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2024:KER:59084

OTHER PRESENT:

SRI. NOUSHAD K. A. (PP)

THIS WRIT PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION
ON 01.08.2024, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

**C.R****BECHU KURIAN THOMAS,J**-----
W.P.(CRL) No.276 of 2022-----
Dated this the 01st day of August, 2024**JUDGMENT**

Petitioner seeks the issuance of a writ of certiorari to quash Ext.P1 application filed in M.C.No.5/2022 before the Gram Nyayalaya, Vellanad, Thiruvananthapuram.

2. Petitioner is the former husband of the second respondent. Though their marriage was solemnised on 05.11.2018, subsequently, by Talaq letters sent on 04.11.2019, 31.12.2019 and 02.03.2020, petitioner dissolved the marriage. In the meantime, the second respondent preferred an application under Section 3 of the Muslim Women (Protection of Rights on Divorce) Act, 1986 (for short "the Act"), a copy of which is produced as Ext. P1. After receipt of notice in the said application, petitioner has approached this Court questioning the jurisdiction of the Gram Nyayalaya to deal with an application under the Act.

3. According to the petitioner, the Gram Nyayalayas Act, 2008 (for short "the GN Act") does not confer jurisdiction upon the Gram Nyayalaya to consider a claim



under the Act and hence, the application ought to be quashed.

4. I have heard Sri. S. Sunil Mauryan, the learned counsel for the petitioner, Sri.Nikhil Sankar, the learned counsel for the second respondent, and Sri.Noushad K. A, the learned Public Prosecutor.

5. The question relates to the jurisdiction of the Gram Nyayalaya to deal with an application under the Muslim Women (Protection of Rights on Divorce) Act, 1986 As per the provisions of the said Act, an application under Section 3 has to be preferred before the Judicial First Class Magistrate Court. Instead of filing an application before the Magistrate, the second respondent filed Ext.P1 application before the Gram Nyayalaya.

6. Section 11 of the GN Act states that “Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or the Code of Civil Procedure, 1908 (5 of 1908) or any other law for the time being in force, the Gram Nyayalaya shall exercise both civil and criminal jurisdiction in the manner and to the extent provided under this Act.” (emphasis supplied). Section 12 of



the GN Act dealing with criminal jurisdiction of the Gram Nyayalaya assumes significance and it reads as follows:-

“12. Criminal jurisdiction.— (1) *Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force, the Gram Nyayalaya may take cognizance of an offence on a complaint or on a police report and shall—*

(a) try all offences specified in Part I of the First Schedule; and

(b) try all offences and grant relief, if any, specified under the enactments included in Part II of that Schedule.

(2) Without prejudice to the provisions of sub-section (1), the Gram Nyayalaya shall also try all such offences or grant such relief under the State Acts which may be notified by the State Government under sub-section (3) of section 14.”

7. In view of Section 12 of the GN Act, the jurisdiction of the Gram Nyayalaya is to try all offences specified in Part 1 of the First Schedule. A reading of the First Schedule to the said Act indicates that an application under the Act is not included therein though an application



for an order of maintenance filed under the Cr.PC is specifically mentioned in the schedule. In the absence of inclusion of petitions filed under the Act in the Schedule to the GN Act, no elaborate discussion is required to conclude that the Grama Nyayalaya, as a court of exclusive jurisdiction is not entitled to deal with applications under the Act. Therefore, the application filed by the second respondent as Ext.P1 has been filed before the wrong forum.

8. Though the petitioner has sought for quashing of Ext.P1 application, it is evident that no grounds have been raised for such a relief. The contention advanced on the basis of the wrong forum, can only result in the return of the application to be presented before the proper forum.

9. Since it has already been held that the Gram Nyayalaya does not possess the jurisdiction to deal with an application under Section 3 of the Act, it is necessary that Ext.P1 application be directed to be returned to the petitioner to be presented before the proper forum within a time frame, in accordance with the law.

10. Accordingly, this writ petition is disposed of,



directing the Gram Nyayalaya, Vellanad, Thiruvananthapuram to return the application filed in MC No.5/2022 to the second respondent for presentation before the proper forum in a time-bound manner and at the earliest.

The writ petition is disposed of as above.

Sd/-

**BECHU KURIAN THOMAS
JUDGE**

bng



APPENDIX OF WP(CRL.) 276/2022

PETITIONER EXHIBITS

EXHIBIT P1 TRUE COPY OF THE APPLICATION DATED 28-
JAN-2022 FILED BY RESPONDENT NO.2 UNDER
SECTION 3 OF THE MUSLIM WOMEN
(PROTECTION OF RIGHTS ON DIVORCE
ACT,)1986 BEFORE THE HON'BLE GRAM
NYAYALAYA, VELLANAMD,
THIRUVANANTHAPURAM DISTRICT

EXHIBIT P2 TRUE COPY OF THE NOTICE DATED 03-FEB-
2022 IN M.C.NO.56 OF 2022 ISSUED TO THE
PETITIONER BY HON'BLE HON'BLE GRAM
NYAYALAYA, VELLANAMD,
THIRUVANANTHAPURAM DISTRICT