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Tr.P (Crl) No.122 of 2025

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE K. BABU

WEDNESDAY, THE 11TH DAY OF MARCH 2026 / 20TH PHALGUNA, 1947

TR.P(CRL.) NO. 122 OF 2025

AGAINST THE ORDER/JUDGMENT DATED IN MC NO.10 OF 2016 OF

GRAMA NYAYALAYA, KUNNUMMAL, KUTTIYADI.

PETITIONERS/PETITIONER 1-3:

1

[REDACTED]

2

[REDACTED]

3

[REDACTED]

BY ADVS.
SHRI.AMEEN HASSAN K.
SMT.LISNA SHERIN T.T.
SMT.UMMUL FADLA T.



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RESPONDENT :

[REDACTED]

THIS TRANSFER PETITION (CRIMINAL) HAVING COME UP FOR
ADMISSION ON 11.03.2026, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:



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'C.R'

K.BABU, J.

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Dated this the 11th day of March, 2026

JUDGMENT

The petitioners, the wife and the children of the respondent, seek transfer of a Maintenance Case filed under Section 125 Cr.PC before the Grama Nyayalaya, Kunnummal, Kuttiyadi to the Family Court, Vadakara.

2. The petitioners filed the Maintenance Case on 30.11.2016. The Grama Nyayalaya numbered the case and issued notice to the respondent, who failed to appear. An award was passed on 27.03.2017. On 27.02.2023, the respondent filed an application to set aside the ex parte award. The Nyayadhikari allowed the application. The Grama Nyayalaya is proceeding the matter for trial. The respondent filed a counter contending that the Grama Nyayalaya has no territorial jurisdiction to entertain the petition. The



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petitioners, therefore, seek transfer of the case to the Family Court, Vadakara. The transfer has been sought on the sole ground that the Nyayadhikari has no jurisdiction to try the maintenance case under Chapter IX of the Cr.PC, as a Family Court having jurisdiction over the subject matter has been established prior to the institution of the case.

3. This Court obtained a report from the Nyayadhikari. Relying on Part II of the First Schedule of the Gram Nyayalayas Act, 2008, the learned Nyayadhikari submitted that it has jurisdiction to entertain a petition under Chapter IX of the Cr.PC. The Registry also submitted that as per clause (v) of Part II of the First Schedule of the Gram Nyayalayas Act, the Grama Nyayalayas have jurisdiction to try and pass orders for maintenance of wives, children and parents under Chapter IX of the Cr.PC, 1973.

4. There cannot be any dispute that under Part II of the First Schedule of the Gram Nyayalayas Act, the Grama Nyayalayas are conferred with jurisdiction to entertain petitions under Section 125



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Cr.PC. But the question is whether a Grama Nyayalaya has jurisdiction to entertain and try a petition under Chapter IX of the Cr.PC in relation to an area where a Family Court is established.

5. As per Section 7(2)(a) of the Family Courts Act, subject to the other provisions of the Act, a Family Court shall have and exercise the jurisdiction exercisable by a Magistrate of the First Class under Chapter IX of the Cr.PC. As per Section 8(b) of the Family Courts Act, where a Family Court has been established for any area, no magistrate shall, in relation to such area, have or exercise any jurisdiction or powers under Chapter IX of the Cr.PC. As per notification dated 22.01.2011, the local area jurisdiction of the Family Court, Kozhikode was re-fixed by delinking the Vadakara and Koyilandy Taluks from its jurisdiction. As per SRO No.58/2011 dated 22.01.2011 the Family Court, Vadakara was established with headquarters at Vadakara with jurisdiction over all villages in Vadakara and Koyilandy Taluks in Kozhikode Revenue District. The Grama Nyayalaya, Kuttiyadi comes under Koyilandy Taluk.



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6. The jurisdiction, powers and authority of the Grama Nyayalayas are dealt with in Sections 11, 12 and 13 of the Gram Nyayalayas Act, 2008. As per Section 11, the Gram Nyayalaya shall exercise both civil and criminal jurisdiction in the manner and to the extent provided under the Act. As per Section 12, notwithstanding anything contained in the Cr.PC or any other law in force, the Gram Nyayalaya may take cognizance of an offence on a complaint or on a police report and shall try the offences specified in Part I and Part II of the First Schedule. As per Section 13, the Gram Nyayalaya shall have jurisdiction to try all suits or proceedings of a civil nature falling under the classes of disputes specified in Part I of the Second Schedule and try all classes of claims and disputes which may be notified by the Central Government under sub-section (1) of Section 14 and by the State Government under sub-section (3) of the Section. Sections 11, 12 and 13 give concurrent jurisdiction to Gram Nyayalayas to exercise powers under the civil and criminal jurisdictions. Therefore, the



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Grama Nyayalayas, as per Part II (v) of the First Schedule, are empowered to deal with maintenance case under Chapter IX of the Cr.PC. However, under Section 8(b) of the Family Courts Act no magistrate shall, in relation to an area where a Family Court is established have or exercise any jurisdiction or powers under Chapter IX of the Cr.PC. Therefore, the Grama Nyayalaya, Kuttiyadi has no power to exercise jurisdiction under Chapter IX of the Cr.PC.

7. The learned counsel for the petitioners raised a question as to whether the Gram Nyayalayas Act, 2008 being a special act promulgated in 2009 after the enactment of the Family Courts Act will have overriding effect over the Family Courts Act. A law may be special when considered in relation to another piece of legislation but only a general one vis-a-vis still another. 'Special' and 'general' used in this context are relative terms. In determining whether a statute is a special or general one, the focus must be on the principal subject matter and the particular perspective. For the purpose of considering an application under Chapter IX of the



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Cr.PC, the Gram Nyayalayas Act is a general act in comparison with the Family Courts Act.

8. The general rule to be followed in the case of a conflict between two statutes is 'leges posteriores priores contrarias abrogant', which means the latter abrogates the earlier one. To this general rule there is an exception, namely, *generalia specialibus non derogant* (general things do not derogate from special things). However, a special law may be altered, abrogated or repealed by a later general law through an express provision. A later general law will override a prior special law if the two are so repugnant to each other that they cannot coexist even though no express provision in that behalf is found in the general law. In the absence of an express provision to the contrary and of a clear inconsistency, a special law will remain wholly unaffected by a later general law. The legislature has the right to alter a law already promulgated by it through subsequent legislation. The provisions of the Family Courts Act, a special Law, has not been expressly altered,



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abrogated or repealed by the Gram Nyayalayas Act. Therefore, the Family Courts Act will remain wholly unaffected by the Gram Nyayalayas Act, 2008. Therefore, the Family Court, Vadakara alone has jurisdiction to consider M.C No.10/2016.

In the result, the Transfer Petition (Criminal) is allowed. M.C No.10/2016 is transferred to the Family Court, Vadakara. There will be a direction to the Family Court, Vadakara to dispose of the application within six months from the date of receipt of a certified copy of this judgment. The Grama Nyayalaya, Kuttiyadi shall forthwith transfer the case to the Family Court, Vadakara.

Sd/-
K.BABU,
JUDGE

KAS



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APPENDIX OF TR.P(CRL.) NO. 122 OF 2025

PETITIONER ANNEXURES

Annexure A1	CERTIFIED COPY OF MC NO. 10 OF 2016 DATED 30.11.2016 FILED BEFORE THE GRAMA NYALAYA, KUNNUMMAL, KUTTIYADI
Annexure A2	TRUE COPY OF EXPARTE ORDER DATED 27.03.2017 IN MC NO. 10 OF 2016 BY THE GRAMA NYALAYA, KUNNUMMAL, KUTTIYADI