



Tr.P(Crl.) No.22 of 2026

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2026:KER:68454

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE JOBIN SEBASTIAN

WEDNESDAY, THE 9TH DAY OF SEPTEMBER 2026 / 18TH BHADRA, 1948TR.P(CRL.) NO. 22 OF 2026

AGAINST THE ORDER/JUDGMENT DATED IN MC NO.135 OF 2025 OF
JUDICIAL MAGISTRATE OF FIRST CLASS -II, NEDUMANGAD

PETITIONERS/RESPONDENTS NOS.2 AND 3:

- 1 SHANMUKHAN, AGED 70 YEARS
S/O BALENDRAN, RESIDING AT MAKAYIRAM VEEDU,
MANGADU.P.O., MANGADU VILLAGE, KOLLAM -, PIN - 691524
- 2 SUJA K.C, AGED 57 YEARS, W/O SHANMUKHAN, RESIDING AT
MAKAYIRAM VEEDU, MANGADU.P.O., MANGADU VILLAGE,
KOLLAM -, PIN - 691524

BY ADVS.
SHRI.PRATHEESH.P
SMT.SAFNA P.S.

RESPONDENTS/PETITIONER&1SAT RESPONDENT

- 1 ASHWATHY G S, AGED 30 YEARS, D/O K C SUKUMARAN,
RESIDING AT KOCHUVILAYIL HOUSE, IRUMBA,
ARUVIKKARA.P.O., THIRUVANANTHAPURAM, PIN - 695564
- 2 SUJITH, AGED 33 YEARS, S/O SHANMUKHAN, AGED 33 YEARS,
RESIDING AT MAKAYIRAM VEEDU, MANGADU.P.O., MANGADU
VILLAGE, KOLLAM -, PIN - 691524

BY ADVS.
SHRI.RAHUL KRISHNAN U.S.
SHRI.KIRAN KRISHNA
SHRI.SALAHUDEEN M.
SHRI.SIDDIQUE SULAIMAN



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**THIS TRANSFER PETITION (CRIMINAL) HAVING COME UP FOR
ADMISSION ON 08.09.2026, THE COURT ON 09.09.2026 DELIVERED THE
FOLLOWING:**

**ORDER**

This Transfer Petition is filed by respondent Nos. 2 and 3 in M.C. No. 135 of 2025, pending on the file of the Judicial First Class Magistrate Court-II, Nedumangad. The said M.C. has been instituted by the 1st respondent herein, who is the wife of the 2nd respondent herein, seeking various reliefs under the Protection of Women from Domestic Violence Act, 2005 (for short, the "PWDV Act").

2. The case of the petitioners, in brief, is as follows:

The petitioners are respondents 2 and 3 in M.C. No. 135 of 2025 pending on the file of the Judicial First Class Magistrate Court-II, Nedumangad, instituted by the wife of the petitioner's son seeking various reliefs under the PWDV Act. The son of the petitioners is presently abroad in connection with his employment. The 1st petitioner, who is the father-in-law of the 1st respondent, is aged above 70 years and is suffering from cardiac ailments and other age-related health issues and is undergoing treatment. The Judicial First Class Magistrate Court-II, Nedumangad, is situated more than 70 kilometres away from Kollam,



where the petitioners are residing, and that they are consequently required to travel nearly 140 kilometres to and from the Court each time when the matter is posted for hearing. The 2nd respondent, who is the son of the petitioners, has already instituted O.P.(HMA) No. 378 of 2025 before the Judicial First Class Magistrate Court-I, Kollam, seeking dissolution of his marriage with the 1st respondent. The petitioners have also instituted O.S. No. 349 of 2025 before the Munsiff's Court, Kollam, seeking to restrain the 1st respondent from trespassing into the property of the petitioners. Having regard to the age and medical condition of the 1st petitioner and the pendency of the connected proceedings before the Judicial First Class Magistrate Court-I, Kollam, and the Munsiff's Court, Kollam, no inconvenience or prejudice would be caused to the 1st respondent if M.C. No. 135 of 2025, pending on the file of the Judicial First Class Magistrate Court-II, Nedumangad, is transferred to the Judicial First Class Magistrate Court-I, Kollam. Hence, the petitioners seek an order transferring the said proceedings to the Judicial First Class Magistrate Court-I, Kollam.

3. Heard the learned counsel for both sides and perused the available records.

4. The learned counsel for the petitioners submitted that the petitioners are aged persons and that the 1st petitioner is suffering from



cardiac ailments and other age-related health issues. According to the learned counsel, M.C. No. 135 of 2025, instituted by the wife of the petitioners' son, is pending on the file of the Judicial First Class Magistrate Court-II, Nedumangad, whereas the petitioners are residing at Kollam. It was therefore submitted that the petitioners are compelled to undertake a journey of nearly 140 kilometres, to and fro, on every posting of the case. It was further submitted that other connected proceedings are pending before various Courts at Kollam and, therefore, transfer of M.C. No. 135 of 2025 to the Judicial First Class Magistrate Court-I, Kollam, would not cause any substantial prejudice to the 1st respondent. On these premises, the learned counsel urged that the Transfer Petition is liable to be allowed.

5. Per contra, the learned counsel for the 1st respondent resisted the Transfer Petition contending that the 1st respondent is a destitute woman who was compelled to face several instances of ill-treatment and harassment in her matrimonial home. According to the learned counsel, if M.C. No. 135 of 2025, pending on the file of the Judicial First Class Magistrate Court-II, Nedumangad, is transferred to the Judicial First Class Magistrate Court-I, Kollam, the same would tell heavily upon the 1st respondent, as it would be difficult for her to travel such a long distance to prosecute her petition. It was further submitted that it is no longer res



integra that, while considering a transfer petition arising out of a matrimonial dispute, due weight has to be given to the convenience of the wife and that a victim-centric approach has to be adopted.

6. While considering a petition for transfer, the Court is required to take into account all relevant circumstances and to balance the competing interests of the parties. The convenience of the parties is undoubtedly one of the factors to be considered. However, the expression "convenience of the parties" cannot be understood as referring to the convenience of the petitioner alone. The Court is required to assess the comparative convenience and hardship of both sides and determine whether, in the facts and circumstances of the case, transfer of the proceedings is necessary in the interests of justice.

7. It is also well settled that, in matrimonial disputes, while considering a prayer for transfer, the Court is required to give due consideration to the convenience of the wife, particularly where she is the aggrieved party prosecuting proceedings arising out of alleged matrimonial violence. This principle, however, cannot be understood as laying down an inflexible rule that every proceeding instituted by the wife must necessarily be transferred to the place of her choice. The Court must examine the facts of each case and strike a balance between the competing claims of convenience, hardship and the overall interests of



justice.

8. In the present case, the proceedings in M.C. No. 135 of 2025 have been instituted by the 1st respondent under the PWDV Act seeking various reliefs as an aggrieved woman. The nature of such proceedings and the statutory protection afforded to an aggrieved woman are relevant considerations while examining the prayer for transfer. Transferring the case from Nedumangad to Kollam would necessarily require her to travel to a different place to conduct the proceedings. The mere fact that the petitioners are residing at Kollam and that certain connected proceedings are pending before Courts at Kollam cannot, by itself, outweigh the inconvenience that may be caused to the 1st respondent.

9. At the same time, this Court has given due consideration to the grievance raised by the petitioners regarding the age and medical condition of the 1st petitioner. The medical record relied upon by the petitioners, however, is dated 15.11.2012. No recent medical record has been produced to establish the present medical condition of the 1st petitioner or to demonstrate that, on account of his medical condition, travelling to Nedumangad would be impossible or highly impracticable. Mere assertion of age-related ailments, in the absence of recent medical material demonstrating the extent of the alleged difficulty, cannot by



itself constitute a sufficient ground for transfer.

10. It is also significant that the petitioners have not raised any allegation of bias, prejudice or any reasonable apprehension regarding the impartiality of the Court where M.C. No. 135 of 2025 is presently pending. No circumstance has been brought to the notice of this Court to indicate that the petitioners would be denied a fair opportunity to contest the proceedings before the said Court. Likewise, the pendency of other proceedings at Kollam, by itself, does not furnish a compelling ground for transferring the proceedings under the PWDV Act.

11. This Court is conscious of the fact that the petitioners may experience some inconvenience in travelling from Kollam to Nedumangad. However, the question is not whether any inconvenience would be caused to the petitioners, but whether, upon weighing the respective inconvenience and hardship of both sides, the circumstances are such as to warrant exercise of the discretionary power of transfer. Having considered the materials placed on record, this Court is of the view that the inconvenience pleaded by the petitioners does not outweigh the inconvenience that may be caused to the 1st respondent, who is prosecuting the proceedings under the PWDV Act.

12. It is also relevant that no exceptional or compelling circumstance has been demonstrated warranting interference with the



ordinary territorial jurisdiction in which the proceedings are presently pending. The power of transfer is discretionary and is to be exercised judiciously, having regard to the facts and circumstances of each case and only when such transfer is found necessary to secure the ends of justice. In the present case, the materials on record do not disclose any such circumstance.

Resultantly, this Transfer Petition fails and is accordingly dismissed.

Sd/-

JOBIN SEBASTIAN

JUDGE

SPV

APPENDIX OF TR.P(CRL.) NO. 22 OF 2026

PETITIONER ANNEXURES

- Annexure A1 THE TRUE COPY OF THE MC NO.135/2025 ALONG WITH CMP NO.1/2025 DATED 27.10.2025 BEFORE THE JFMC-II, NEDUMANGAD
- Annexure A2 TRUE TRUE COPY OF THE CASE SUMMARY DATED 15.11.2012 ISSUED BY THE DEPARTMENT OF CARDIOLOGY, MEDICAL COLLEGE HOSPITAL, THIRUVANANTHAPURAM
- Annexure A3 THE TRUE COPY OF THE OP(HMA) NO.378/2025 ON THE FILE OF FAMILY COURT, KOLLAM FILED BY THE 2ND RESPONDENT AGAINST THE 1ST RESPONDENT ON 1.4.2025
- Annexure A4 THE COPY OF THE O.S NO.349/2025 ON THE FILE OF MUNSIFF COURT, KOLLAM DATED 21.5.2025

RESPONDENT ANNEXURES

- Annexure R1 True copy of the stay revival and extension order dated 19.05.2026 in Tr. P. (C) No. 743/2025