2026:KER:9312

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE C.PRATHEEP KUMAR

TUESDAY, THE 3RD DAY OF FEBRUARY 2026 / 14TH MAGHA, 1947

CRL.MC NO. 7868 OF 2025

CRIME NO.293/2025 OF VIZHINJAM POLICE STATION, THIRUVANANTHAPURAM

SC NO.1401 OF 2025 OF ADDITIONAL DISTRICT COURT & SESSIONS COURT (ATROCITIES & SEXUAL VIOLENCE AGAINST WOMEN & CHILDREN),THIRUVANANTHAPURAM

PETITIONER/ACCUSED:

SIBIN S.V
AGED 36 YEARS, S/O SEKHARAN.K,
SAJU NIVAS, NETTATHANNI, MULLOOR.P.O,
NEYYATTINKARA, THIRUVANANTHAPURAM,PIN-695521

BY ADVS.
SRI.M.R.SARIN
SRI.P.SANTHOSHKUMAR (KARUMKULAM)
SMT.PARVATHI KRISHNA
SHRI.AJI S.
SHRI.MIDHUN SOMAN

RESPONDENTS/STATE & DEFACTO COMPALINANT:

1 **STATE OF KERALA**
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, PIN - 682031

2 **XXXXXXXXXX**

OTHER PRESENT:

SR.PUBLIC PROSECUTOR-SRI.BREEZ M.S.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 03.02.2026, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

O R D E R

Dated this the 3rd day of February, 2026

The petitioner, who is the sole accused in SC.1401/2025 on the file of the Additional Sessions Court (Atrocities & Sexual violence against Women and Children), Thiruvananthapuram, arising out of Crime No.293/2025 of Vizhinjam Police Station, filed this petition under Section 528 of the BNSS praying for quashing all further proceedings against him. The offences alleged against the petitioner are under Section 118(1) of BNS and Section 75 of the Juvenile Justice (Care and Protection of Children)Act ('JJ Act' for short).

2. The prosecution case is that the accused, who is a teacher of the defacto complainant, on 10.2.2025 at about 12.30 p.m., at the staff room of VPS Malankara School, Venganoor, voluntarily caused hurt to the defacto complainant by beating him with a cane on his buttocks and thereby he is alleged to have committed the aforesaid offences.

3. According to the learned counsel for the petitioner, this is a false foisted against the petitioner. Further according to him, the allegations levelled against the petitioner does not constitute the offences as alleged. Therefore, he prayed for quashing all further proceedings against the petitioner.

4. The petition was strongly opposed by the learning Public Prosecutor.

5. Though notice was served on the defacto complainant/2nd respondent, he did not turn up.

6. Though the alleged incident was on 10.2.2025, the FIR was seen registered only on 13.2.2025. The Accident Register cum Wound Certificate issued from the Community Health Centre, Vizhinjam, also shows that the child was reported before that hospital only on 13.2.2025 at about 7 p.m., with the history of pain over buttocks. In the wound certificate, no external injuries were seen by the Doctor, who treated the victim.

7. As argued by the learned counsel for the petitioner, in order to attract the offence punishable under Section 118(1) of the BNS, the weapon used must be a dangerous one. Section 118(1) of BNS reads as follows:

> "118 – Voluntarily causing hurt or grievous hurt by dangerous weapons or means.
>
> 1. Whoever, except in the case provided for by sub-section (1) of section 122, voluntarily causes hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine which may extend to twenty thousand rupees, or with both."

8. Since the weapon allegedly used by the petitioner is only a cane, the same does not amount to a dangerous weapon as defined under Section 118(1) of the BNS. Therefore, the allegations against the petitioner does not constitute

the offence under Section 118(1) of BNS.

9. The extent to which a teacher could lawfully inflict corporal punishment on a student under his control was dealt with by this court in some decisions. In the decision in **K.A.Abdul Vahid v. State of Kerala** 2005(2)KLT 72 this court held in paragraphs 3, 4 and 8 as follows:

> *3. The reporting of instances, similar to the facts stated above, are rare. Often, when such instances are brought to the notice of the parents or others, they are not taken-seriously, as a teacher has an implied consent or authority to maintain the school discipline and also to train a student based on the Rules of a school. When a student do not behave properly or act according to the Rules of a school, and if the teacher chastise him, on a bona fide intention, by giving him a corporal punishment for improving his character and conduct, the Court has to ascertain whether the said act of the teacher was bona fide or not. If it is found that he had acted with a good intention, only to improve the student, it may not normally be brought under the penal provisions of the Code.*
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> *4. Ss.88 and 89 I.P.C. are the relevant provisions to the facts of this case and hence I reproduce them below:*
>
> ***"88. Act not intended to cause death, done by consent in good faith for person's benefit:-****Nothing which is not intended to cause death, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to any person for whose benefit it is done in good faith, and who has given a consent, whether express or implied, to suffer that harm, or to take the risk of that harm.*
>
> ***89. Act done in good faith for benefit of child or insane person, by or by consent of guardian:-****Nothing which is done in good faith for the benefit of a person under twelve years of age, or of unsound mind, by or by consent, either express or implied, of the guardian or other person having lawful charge of that person, is an offence by reason of any harm which it may cause, or be intended by the doer to cause or be known by the doer to be likely to cause to that person:*

Provisos- Provided:

Firstly That this exception shall not extend to the intentional causing of death or to the attempting to cause death;

Secondly That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity;

Thirdly That this exception shall not extend to the voluntary causing of grievous hurt, or to the attempting to cause grievous hurt unless it be for the purpose of preventing death or grievous hurt, or the curing of any grievous disease or infirmity;

Fourthly That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend."

8. The facts on record show that the petitioner has got a cane to inflict corporal punishments on the erring students of Madrassa. He does it on a bona fide intention to improve the students, on maintaining discipline and making them to adhere to the Madrassa standards. He has got no intention to inflict any harm to the students. The injuries, as noted above, had been inflicted on the buttock. That itself show, the petitioner has got only an intention to inflict some pain on the student, a 10 year old boy, so that he behaves himself well to the prescribed regulations of Madrassa. When a child is sent to Madrassa or a school, the parents of the said child give an implied authority to the master or the class teacher or Headmaster/Headmistress to enforce discipline and correct the students who commit errors in front of him or her or in the classes. If a corporal punishment is given by any of them, in the process of maintaining such discipline, and also to make him/her adhere to the prescribed standards of the school, which are necessary for the upliftment and development of the child, including the development of his character and conduct in and outside the school, so that he is trained to be aware of the good qualities of a citizen, it cannot be said to be an act intended to injure the student. In such a situation, if no intentional injury is caused, considering the age of the student, it cannot be said that the said school teacher has inflicted injury to harm him. But again, the act of the teacher on the student, in imposing corporal punishment, depends upon the circumstances of each case. If a teacher out of fury and excitement, inflicts injuries which is harmful to the health of a tender aged student, it cannot be accepted as a right conferred on such a teacher to inflict such punishment, because of the express or implied authority granted by the parents of that student. Therefore, there cannot

be any generalised pattern of principle in such situations. The acts of a teacher has to be appreciated and assessed depending upon the circumstances that are placed before the Court, in each case. It is the duty of the teachers to have a restrained and controlled imposition of punishments on the pupils under their care and charge.

Unwieldy, uncontrolled and emotional attacks or actions on their part cannot be accepted. However, in this case, a Madrassa teacher, petitioner herein, gave beatings on the gluteal region, only to make him to adhere the standards of Madrassa. Therefore, it was done with the bona fide intention. I do not find that the petitioner had any mens rea so as to inflict an injury under S.324 I.P.C.

10. In the decision in **Rajan @ Raju v. Sub Inspector of Police Farook Police Station and Another, 2019(1)KLT 119** this court held in paragraphs 9 and 11 as follows:

9. In the case on hand, though the incident had allegedly taken place on 5.11.2015, the law was set in motion on 8.11.2015. Admittedly, the applicant herein is a school teacher and the victim is his student. Parents, teachers and other persons in loco parentis are entitled as a disciplinary measure to apply a reasonable degree of force to their children or pupil old enough to understand the purpose to which the act was done. S.79 and 80 of the IPC would come to his/her rescue, in those cases. However, if the punishment imposed is given out of spite or for some other non disciplinary reason or if the force is unreasonable or immoderate, it is unlawful. Hurt of a less serious crime is not forbidden when inflicted in the reasonable chastisement of a child by a parent or by a school teacher to whom the parent has delegated or is deemed to have delegated his authority. (see Cross and Jones on Introduction to Criminal Law, 9th Edn., Page 120; Kenny on Outlines of Criminal Law, 19th Edn. Page 18).

11. The precedents cited by the petitioner were all rendered prior to the advent of the JJ Act, 2000. However, the principles laid down can be applied to the instant case as well. In the cited cases, their Lordships have taken a view that when a student is sent by his parent or guardian to a school, the parent or guardian must be deemed to have given an implied consent to the child being under the discipline and control of the

> *school authorities and to the infliction of such reasonable punishment as may be necessary for the purposes of school discipline or for correcting him. The courts have taken the view that the school teacher, in view of his peculiar position, must in the nature of things, have authority to enforce discipline and correct a pupil, who is put in his charge. The courts have also taken the view that it can be assumed that when a parent entrust a child to a teacher, he on his behalf impliedly consents for the teacher to exercise over the student such authority. However, the nature and gravity of the corporal punishment inflicted by the teacher would determine as to whether he can be proceeded under the penal provisions. If the teacher, out of unbridled fury, excitement or rage, inflicts injuries which are of such a nature as to cause unreasonable physical suffering or harm to the child, the same cannot be condoned on any ground or on the principle of express or implied consent.*

11. In the decision in ***Jomi v. State of Kerala*** **[2024 (2) KLD 230]** this court held that when there is no malafide intention on the part of the teacher in inflicting corporal punishment for the well-being of the student, as well as for maintaining the discipline of the institution, it is not possible to say that the offence under Section 75 of the JJ Act is attracted.

12. From the above decisions it is clear that the school teacher, in view of his peculiar position, has authority to enforce discipline and correct a pupil, who is put in his charge. When a parent entrusts a child to a teacher, he on his behalf impliedly consents for the teacher to exercise over the student such authority. When a student does not behave properly or act according to the rules of a school, and if the teacher gives him a corporal punishment for improving his character and conduct, the court has to ascertain whether the said act of the teacher was *bona fide* or not. If it is found that he had acted with a good intention, only to improve or correct the student, he is within his limits.

13. From the evidence available on record, it appears that the petitioner has only used minimum corporal punishment for enforcing discipline in the school and there is no evidence to show that he had any guilty intention to cause any hurt to the defacto complainant or to treat the defacto complainant with cruelty. In the above circumstances, no useful purpose will be served in continuing the proceedings against the petitioner and as such this Criminal M.C. is liable to be allowed.

14. In the result, this Crl.M.C. is allowed. All further proceedings against the petitioners in SC. No.1401/2025 on the file of the Additional Sessions Court (Atrocities & Sexual Violence against Women and Children), Thiruvananthapuram, arising out of Crime No.293/2025 of Vizhinjam Police Station, stands quashed under section 528 of B.N.S.S.

Sd/-
C. PRATHEEP KUMAR,
JUDGE

sou.