

(2025) 10 KL CK 1305

In the High Court Of Kerala

Case No : Criminal Miscellaneous Petition No. 7164 Of 2024

Abhuthahir

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 16-10-2025

Acts Referred:

Bharatiya Nagarik Suraksha Sanhita, 2023 — Section 528Indian Penal Code, 1860 - Section 324Juvenile Justice (Care & Protection of Children) Act 2015 - Section 75

Citation : (2025) 10 KL CK 1305

Hon'ble Judges : C. Pratheep Kumar, J

Bench : Single Bench

Advocate : V.A.Johnson (Varikkappallil), A.Vipin Narayan

Final Decision : Allowed

Judgement

C. Pratheep Kumar, J

1. This is a petition filed under 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, by the accused in Crime No.585 of 2019 of Vadakkencherry Police Station, which is pending as S.C. No.577/2023 on the file of the Additional Sessions Judge-I (Special Court), Palakkad. The offences alleged against the petitioner are punishable under Section 324 IPC and Section 75 of Juvenile Justice (Care & Protection of Children) Act 2015.

2. The prosecution case is that, on 16.09.2019, at about 10 a.m., while the victim who was a 5th standard student in Mambad CAUP School, along with other students in the class were engaged in attacking each other, the accused who was their teacher intervened with a cane and beat the children who were engaged in the clash, on their legs.

3. According to the learned counsel for the petitioner, the petitioner being a responsible teacher was only performing his duty to restrain the students who were attacking each other using sticks, in the process of maintaining discipline

and that there was absolutely no intention for him to hurt the students. Therefore he prayed for quashing the proceedings against the petitioner.

4. The application was opposed by the learned Public Prosecutor.

5. 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 Wahid 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.

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.

6. 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.

7. 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 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.

8. 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.

9. On a perusal of the FI Statement given by the victim child it can be seen that, at first, one of the students in the class spit on the body of the victim. In retaliation, the victim spit on the body of the former student. On seeing the same, another student came with a plastic pipe and beat the victim. In return, the victim beat back the other student. Again, the victim took a stick from the vicinity and attempted to beat the student who beat him. It was at that time, the Maths teacher (the petitioner) who happened to see the students attacking each other, came with a cane and beat all the three students engaged in the clash.

10. From the above statement of the child itself it is clear that they were attacking with sticks. It was at that time the petitioner intervened to enforce discipline in the class. Admittedly the petitioner caned only those three children who were engaged in the clash and that too only on their legs. Though the incident was at 10 am on 16.09.2019, the same was reported to the police only at 20.27 hours on 20.09.2019. No reason was given for the above delay. The child was not treated by any doctor. There is no evidence to show that the victim sustained any bodily injury in the incident. It shows that the petitioner has used only minimum force while caning the students. Since the petitioner had used only minimum corporal punishment, that too, only for enforcing discipline in the class, it is evident that he had no intention to cause any hurt to the students beyond what is required for enforcing the discipline in the class. Therefore, it can be seen that the above conduct of the petitioner was only for correcting the students and to make them good citizens and as such he was well within his limits. But it was quite unfortunate that their parents could not understand the good intention of the petitioner, which led to this unwarranted prosecution. The above conduct of the petitioner does not amount to any offence, including the offences punishable under section 324 IPC and section 75 of the JJ Act, and as such the request in this petition to quash further proceedings against the petitioner is well founded. In the above circumstances, I hold that this is a fit case in which further proceedings can be quashed by invoking the inherent power of this court.

In the result, This Crl. M.C is allowed. All further proceedings in CC. No.577/2023 on the file of the Additional Sessions Judge-I (Special Court), Palakkad, arising from Crime No.585 of 2019 of Vadakkencherry Police Station, is quashed.