

(2026) 02 KL CK 1727

In the High Court Of Kerala

Case No : Writ Petition (C) No. 44739 Of 2024

Anitha C. D/O C.S Thankappan

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 23-02-2026

Acts Referred:

Constitution of India, 1950 — Article 226
Kerala Police Act, 2011 — Section 57
Hindu Marriage Act, 1955 — Section 13B
Registration of Births and Deaths Act, 1969 — Section 15, 30
Kerala Registration of Births and Deaths Rules, 1999 — Rule 11, 11(1), 11(2)

Citation : (2026) 02 KL CK 1727

Hon'ble Judges : P.V.Kunhikrishnan, J

Bench : Single Bench

Advocate : Happymon Babu, Blessy Mary Sebastian, Santhosh P.Poduval, Sruthy Saijo, Jahra K., Vidya Kuriakose

Final Decision : Disposed Of

Judgement

P.V.Kunhikrishnan, J

1. This Court in Balachandra Menon v. State of Kerala [2024 KHC 1634] observed that pride and dignity are not only to woman, but also for men. The present case is also a sad story of an unfortunate man whose wife led an adulterous life with another man while the marital relationship with him was in existence. A child was also born in her illicit relationship with that man. Usually, if the husband has an illicit relationship with another woman, that will be a big story, and the man will be humiliated to the extent possible by the wife and her relatives. Of course, there will be genuine grievance on the part of the wife toward her husband in such cases, and the husband may deserve it. I am of the opinion that, in a situation like this in this case, all should stand behind the men as well, because they too have dignity, pride, self-respect, and social identity. In cultures like ours, where marital fidelity holds strong social value, a husband may feel publicly ridiculed in such a situation, as if his manhood and status have been mocked.

2. I will narrate the facts in brief: The 1st petitioner is the mother of the 3rd petitioner. The 1st petitioner initially married the additional 4th respondent, and the marriage was solemnised on 23.04.2006. There was a male child in that relationship, and he is now a major. After marriage, the 4th respondent was working in Bangalore as an Accountant. According to the 1st petitioner, the 4th respondent was not taking care of the family as a husband and was not satisfying the needs of the 1st petitioner. When the marital relationship of the 1st petitioner with the 4th respondent was in existence, the 1st petitioner fell in love with the 2nd petitioner and conceived a child in that relationship with the 2nd petitioner. The 3rd petitioner, a girl child, was born out of the relationship between the 1st and 2nd petitioner, when the marital relationship of the 1st petitioner with the 4th respondent was in existence. Ext. P1 is the birth certificate of the 3rd petitioner, and in that birth certificate, the 4th respondent is shown as the father of the 3rd petitioner and the date of birth of the child is shown as 20.09.2017. The child continued with the 1st petitioner and the 4th respondent. According to the petitioners, the 4th respondent engaged in heated arguments that led to prolonged fights in the matrimonial house, denying the biological parenthood of the 3rd petitioner. Therefore, the 1st petitioner left the house of the 4th respondent on 02.02.2023 at 4 pm. The 4th respondent lodged a missing FIR of his wife, which led to the registration of Ext.P2 FIR by the Vellikulangara Police Station. According to the petitioners, the marriage between the 1st petitioner and the 4th respondent was problematic for the above reason, and matters worsened, leading the 1st petitioner and the 4th respondent to decide to obtain a divorce by mutual consent. Accordingly, Ext.P3 order was passed by the Family Court, Irinjalakuda, ordering divorce on 04.04.2023. After the divorce, the 1st petitioner married the 2nd petitioner. Ext.P4 is the marriage certificate of the same. According to the petitioners, since the name of the father in the birth certificate of the 3rd petitioner is wrongly shown as the 4th respondent, the school authorities informed the petitioners that the child will not be permitted to continue her studies in the said school if the birth certificate bearing the proper name of the father is not produced within the specified time. Hence, the petitioner prayed for changing the entry of the father's name of the 3rd petitioner to that of the 2nd petitioner instead of the 4th respondent. Hence, this writ petition.

3. Heard the learned counsel for the petitioners, Standing Counsel appearing for the Corporation and also the learned Government Pleader. I also heard the counsel appearing for the 4th respondent.

4. The first point to be decided is whether the entry in the birth certificate can be corrected legally. This Court, in XXXX & another v. Registrar of Births and Deaths, Pathanamthitta Municipality and others [2022 (5) KHC 72], considered this aspect. It will be better to extract the relevant portion of the above judgment.

"10. Section 15 of the Act 1969 deals with the correction or cancellation of entry

in the register of births and deaths. It will be beneficial to extract Section 15 of the Act 1969:

"15. If it is proved to the satisfaction of the Registrar that any entry of a birth or death in any register kept by him under this Act is erroneous in form or substance, or has been fraudulently or improperly made, he may, subject to such rules as may be made by the State Government with respect to the conditions on which and the circumstances in which such entries may be corrected or cancelled correct the error or cancel the entry by suitable entry in the margin, without any alteration of the original entry, and shall sign the marginal entry and add thereto the date of the correction or cancellation."

11. As per Section 15, if it is proved to the satisfaction of the Registrar that any entry of a birth or death in any register kept by him under this Act is erroneous in form or substance or has been fraudulently or improperly made, he may, subject to such rules as may be made by the State Government with respect to the conditions on which and the circumstances in which such entries may be corrected or cancelled, correct the error or cancel the entry by suitable entry in the margin, without any alteration of the original entry, and shall sign the marginal entry and add thereto the date of the correction or cancellation. The Kerala Registration of Births and Deaths Rules, 1999 (for short, the Rules 1999) was framed in exercise of the powers conferred by Section 30 of the Act 1969. Rule 11 of the Rules 1999 is relevant, and the same is extracted hereunder:

"11. Correction or cancellation of entry in the register of births and deaths -

(1) If it is reported to the Registrar that a clerical or formal error has been made in the register or if such error is otherwise noticed by him the Registrar shall enquire into the matter and if he is satisfied that any such error has been made, he shall correct the error (by correcting or cancelling the entry) as provided in section 15 and shall send an extract of the entry showing the error and how it has been corrected to the State Government or the officer specified by it in this behalf.

(2) If any person asserts that any entry in the register of births and deaths is erroneous in substance, the Registrar may correct the entry in the manner prescribed under section 15 upon production by that person a declaration setting forth the nature of the error and true facts of the case made by two credible persons having knowledge of the facts of the case. Notwithstanding anything contained in sub-rule (1) and sub-rule (2) the Registrar shall make report of any correction of the kind referred to therein giving necessary details to the State Government or the officer specified in this behalf.

(3) If it is proved to the satisfaction of the Registrar that any entry in the register of births and deaths has been fraudulently or improperly made, he shall make a report giving necessary details to the officer authorised by the Chief Registrar by general or special order in this behalf under section 25 and on hearing from him take necessary action in the matter.

(4) In every case in which an entry is corrected or cancelled under this rule, intimation thereof should be sent to the permanent address of the person who has given information under section 8 or section 9."

12. As per Rule 11(2), if any person asserts that any entry in the register of births and deaths is erroneous in substance, the Registrar may correct the entry in the manner prescribed under Section 15 upon production by that person, a declaration setting forth the nature of the error and true facts of the case made by two credible persons having knowledge of the facts of the case. It is also stated that notwithstanding anything contained in sub-rule (1) and subrule (2) of Rule 11, the Registrar shall make report of any correction of the kind referred to therein, giving necessary details to the State Government or the officer specified in this behalf. Therefore, on a combined reading of Section 15 of the Act 1969 and Rule 11 of the Rules 1999, it is clear that a correction of an entry in the Register of Births and Deaths is possible in certain circumstances mentioned in it."

5. Similarly, in *AAA v. State of Kerala* [2025 (5) KHC 537], this court considered the power of the Registrar in changing the name of the father in the birth certificate. This Court observed that the powers conferred on a Registrar under Sec. 15 of the Registration of Births and Deaths Act, 1969 (for short 'Act, 1969') and Rule 11 of the Registration of Births and Deaths Rules, 1999 (for short 'Rules, 1999') are circumscribed and limited to the correction of clerical or formal errors of entries fraudulently or improperly made and not matters of disputed paternity, which requires a full fledged trial and adjudication by a competent court.

6. This Court in *AAA's* case (*supra*) also observed that the correction of an entry in the Register of Births is to be made in accordance with the circular dated 16.12.2015 of the Government. This Court said that the circular mandates that, if the father's name is to be changed in the birth records, a DNA test report, an agreement attested before a Notary Public, and an order from a competent court are to be produced. In that case, the same is not followed, and there is a dispute over paternity. Hence, this Court was pleased to set aside the orders correcting the birth certificate. It will be better to extract the relevant portion of the above judgment.

12. "The powers conferred on a Registrar under S.15 and R.11 are circumscribed and limited to the correction of clerical or formal errors or entries fraudulently or improperly made, and not matters of disputed paternity, which require a full - fledged trial and adjudication, and a judicial imprimatur. Here, the Registrar has substituted the names solely on a joint application and certain documents submitted by the respondents' 7 and 8, and without comprehending the conclusive proof of S.112 of the Indian Evidence Act and Ext.P19 circular dated 16/12/2015 issued by the Local Self Government Department. The circular mandates that, if the father's name has to be changed in the birth records, a DNA test report, an agreement attested before a Notary Public and an order from a competent Court are to be produced. It is without following the above

procedures that the 4th respondent has carried out the substitution.”

7. In the light of the above judgment, it is clear that the correction of the birth records is not an automatic process when an application is filed. The Registrar should be convinced that the grounds mentioned in Sec.15 of the Act, 1969 and Rule 11 of the Rules, 1999 are available. Without such grounds, the Registrar cannot entertain an application for correction of the date of birth invoking the powers under Section 15 of the Act, 1969, r/w Rule 11 of the Rules 1999. In this case, admittedly, there is no DNA test report showing that the 2nd petitioner is the biological father of the 3rd petitioner and not the 4th respondent. Hence, the Registrar has no jurisdiction to entertain an application in this case. That may be why the petitioners approached this Court directly to order a correction to the 3rd petitioner's birth certificate.

8. In the above background, whether this Court should invoke the extraordinary jurisdiction under Article 226 of the Constitution of India is the point to be decided in this case. A woman falling in love with a man is not a sin. A married woman also may fall in love with another person. But, when a marital relationship is in existence, morally and legally, it is not proper for a woman to have an extramarital physical relationship with another man. Vice versa is also not correct. But there is no legal prohibition for a sexual relationship between a man and a woman if it is a consensual act. Here, the 1st petitioner is married to the 4th respondent. Their marital relationship is in existence. The 4th respondent is working in Bangalore. At that time, when the marital relationship was in existence, the 1st petitioner fell in love with the 2nd petitioner. At that stage, the 1st petitioner has a male child in the marital relationship with the 4th respondent. Even then, it seems, the 1st petitioner continued her relationship with the 2nd petitioner without the knowledge of the 4th respondent, who is her real husband. A minor girl child was born in the relationship between petitioners 1 and 2 on 20.09.2017. It seems that the 4th respondent was under the bona fide belief that the 3rd petitioner was his child born in his wedlock with the 1st petitioner. The 4th respondent continued to reside with the 1st petitioner for about 6 years. During that period, it seems, the 1st petitioner continued her relationship with the 2nd petitioner. Of course, it gave rise to a fight and matrimonial dispute between the 1st petitioner and the 4th respondent. On 02.02.2023, the 1st petitioner left the residence of the 4th respondent along with the 3rd petitioner, the minor child. The 4th respondent filed a missing complaint before the Vellikulangara Police Station, which was registered under Section 57 of the Kerala Police Act, 2011. Ext.P2 is the FIR and the First Information Statement. The 4th respondent stated in the First Information Statement that he has two children in wedlock with the 1st petitioner and that the 1st petitioner left his house along with the 3rd petitioner, the minor child. In the First Information Statement, it is also stated by the 4th respondent that the 1st petitioner was having an illicit relationship with the 2nd petitioner, and there was some matrimonial fight between the 1st petitioner and the 4th respondent about the same. Thereafter, the 1st petitioner and the 4th respondent decided to file a

divorce petition on mutual consent. Accordingly, an application under Section 13B of the Hindu Marriage Act was filed before the Family Court, Irinjalakkuda, resulting in a decree of divorce, as evident from Ext. P3. Thereafter, on 31.12.2023, the 1st petitioner married the 2nd petitioner, as evident by Ext.P4.

9. Even after the marriage of the 1st petitioner with the 2nd petitioner, and even after knowing that the 3rd petitioner is the child of the 1st petitioner in the relationship with the 2nd petitioner during the subsistence of the marriage between the 1st petitioner and the 4th respondent, the 4th respondent has not filed any petition to change the birth certificate of the 3rd petitioner for correcting the father's name in it as the 2nd petitioner. That shows the gentlemanly behaviour of the 4th respondent and his affection towards the child, who was with him till the 1st petitioner eloped with the 2nd petitioner, taking the child. It seems that he does not want the public to know that the 3rd petitioner is a child born in an illicit relationship between petitioners 1 and 2 during the subsistence of the lawful marriage between 1st petitioner and the 4th respondent. I think the 4th respondent does not want to embarrass the child when the child becomes a major, and that may be one of the reasons for not approaching the authorities to correct the father's name. But petitioners 1 and 2 filed this writ petition stating that the father's name of the 3rd petitioner, as entered in Ext.P1 birth certificate, is to be changed, and the name of the 2nd petitioner is to be added. That shows that the 1st petitioner admits her adulterous life with the 2nd petitioner when her marital relationship with the 4th respondent was in existence. Moreover, this petition was filed without impleading the fourth respondent, and the petitioners, Nos. 1 and 2, seek an order behind the back of the 4th respondent. The 4th respondent was impleaded as directed by this court. Again, the 1st and 2nd petitioners did not even mask the minor child's name in this writ petition. That shows their attitude towards that innocent child, as well as their attitude towards the fourth respondent. Here is a case where the 1st petitioner submitted before this Court that she was living in adultery with the 2nd petitioner when her marital relationship with the 4th respondent was in existence. She became pregnant in the year 2017 and gave birth to the 3rd petitioner. At that time, the 1st petitioner was also aware that the 3rd petitioner was not the child of the 4th respondent. The 4th respondent, who is an unfortunate husband, on a bona fide belief that he is the father of the 3rd petitioner, informed the hospital authorities that he is the father of the 3rd petitioner, and accordingly, in the birth register, his name was entered as the father of the child. Thereafter, years have elapsed. In 2023, when the 3rd petitioner's minor child was 6 years old, the 1st petitioner eloped with the 2nd petitioner. That is why I said that the 4th respondent is an unfortunate husband. As I mentioned earlier, not only women but also men have dignity, pride, and individuality. If the 1st petitioner wants to continue the relationship with the 2nd petitioner, there is no problem with her leaving the 4th respondent and staying with the 2nd petitioner. A perusal of the FIR would show that there was some dispute between the 1st petitioner and the 4th respondent about the illicit

relationship of petitioners 1 and 2. Even then, the 4th respondent does not want to leave the 1st petitioner. That again shows the gentlemanly attitude of the 4th respondent. Again, as I said earlier, the 4th respondent does not want to change the name of the father of the 3rd petitioner in the birth certificate by filing any application before the authority. Here, petitioners 1 and 2 filed this writ petition, stating that the father's name of the 3rd petitioner should be changed and that the 2nd petitioner's name should be added as the father's name, without impleading the 4th respondent. The ground mentioned in the writ petition is that the school authorities stated that the child will not be allowed to study unless the father's name is changed. I cannot believe the petitioners' statements. How do the school authorities know that the fourth respondent is not the father of the third petitioner, unless the petitioners also made it public to the school authorities? Moreover, it is difficult to accept the petitioners' claim that the school authorities insist that the father's name of the third petitioner is to be changed to allow the child to continue at the school. Therefore, the attitude of petitioners 1 and 2 is to be deprecated, and they are not entitled to any relief from this Court, as this Court is exercising its extraordinary jurisdiction under Article 226 of the Constitution of India. It is a discretionary jurisdiction.

10. Even then, this Court cannot dismiss the writ petition considering the plight of the 3rd petitioner, who is the minor child and also the innocent former husband of the 1st petitioner, who is the 4th respondent herein. The counsel who appeared for the 4th respondent submitted before this Court that his client has no objection to the correction of the birth certificate as prayed for by petitioners 1 and 2. That is the gentlemanly attitude of the 4th respondent. Moreover, the 3rd petitioner is a minor girl. I do not want her to be in an embarrassing situation when she becomes major, if the father's name is not correctly mentioned in the birth register. Therefore, considering the plight of the minor child and the gentlemanly attitude of the 4th respondent, I think the correction can be allowed, invoking the extraordinary jurisdiction of this Court. If this court finds an injustice to a citizen, it can step in to redress it and ensure complete justice. This court must also imagine the minor child's future. Let the name of the 3rd petitioner's father be correctly mentioned in the birth register before she become major. Let there be a quietus. But the Registry shall mask the names of the 3rd petitioner and 4th respondent in the cause title of the judgment when uploading it to the official site of this Court. Even if the 1st and 2nd petitioner is not bothered about the same while filing the writ petition by masking the name of the child, this court exercises the principle of 'Parens patriae' rule and protects the privacy of the child. The 4th respondent is also entitled to privacy, and his name should be masked as well. The registry will provide sufficient certified copies of the judgment, along with the details of the 3rd petitioner and 4th respondent, in a separate sealed cover, if a copy application is filed by the petitioners for the purpose of producing the judgment before the 2nd respondent.

Therefore, this Writ Petition is disposed of in the following manner:

1. Petitioners are free to submit an application before the competent authority of the 2nd respondent for correction of the father's name of the 3rd petitioner in Ext.P1 birth certificate, as the 2nd petitioner instead of the 4th respondent.
2. If such an application is received, the competent authority of the 2nd respondent is directed to correct the father's name of the 3rd petitioner as the 2nd petitioner by making a suitable entry in the margin of the register without any alteration of the original entry, and shall sign the marginal entry and add thereto the date of correction or cancellation. Based on that correction in the register, a fresh birth certificate should be issued to the petitioners within 30 days of receipt of the application.
3. Registry shall mask the name of the 3rd petitioner and the 4th respondent in the cause title of the judgment while uploading to the official site of this Court. The registry will provide sufficient number of certified copies of the judgment, along with the details of the 3rd petitioner and 4th respondent, in a separate sealed cover, if a copy application is filed for the purpose of producing the judgment before the 2nd respondent by the petitioners.