

'CR'

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

MONDAY, THE 23<sup>RD</sup> DAY OF FEBRUARY 2026 / 4TH PHALGUNA, 1947

PETITIONER/S:

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XXX XXX XXX  
XXX XXX XXX  
XXX XXX XXX

BY ADVS.  
SHRI.HAPPYMON BABU  
SMT.BLESSY MARY SEBASTIAN

RESPONDENT/S :

- 1 STATE OF KERALA,  
REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH  
COURT OF KERALA, ERNAKULAM, PIN - 682031
- 2 THRISSUR MUNICIPAL CORPORATION,  
REPRESENTED BY ITS SECRETARY, MUNICIPAL OFFICE  
ROAD, THRISSUR, PIN - 680001
- 3 RAHESH KUMAR R. ,  
SECRETARY, THRISSUR MUNICIPAL CORPORATION,  
MUNICIPAL OFFICE ROAD, PIN - 680001

Addl.R4

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XXX XXXX XXXX

(IS IMPEADED AS ADDL.R4 IN THIS WRIT PEITION  
AS PER ORDER DATED 23.2.26 IN IA NO.1/24 )

BY ADVS.  
SHRI.SANTHOSH P.PODUVAL  
SMT.SRUTHY SAIJO  
SMT.JAHRA K. ,  
SMT.VIDYA KURIAKOSE, SR.GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 23.02.2026, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

'CR'

**P.V.KUNHIKRISHNAN, J**

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**W.P.(C) No.**  
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**Dated this the 23<sup>rd</sup> day of February, 2026**

**JUDGMENT**

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 1<sup>st</sup> petitioner is the mother of the 3<sup>rd</sup> petitioner. The 1<sup>st</sup> petitioner initially married the additional 4<sup>th</sup> 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 4<sup>th</sup> respondent was working in Bangalore as an Accountant. According to the 1<sup>st</sup> petitioner, the 4<sup>th</sup> respondent was not taking care of the family as a husband and was not satisfying the needs of the 1<sup>st</sup> petitioner. When the marital

relationship of the 1<sup>st</sup> petitioner with the 4<sup>th</sup> respondent was in existence, the 1<sup>st</sup> petitioner fell in love with the 2<sup>nd</sup> petitioner and conceived a child in that relationship with the 2<sup>nd</sup> petitioner. The 3<sup>rd</sup> petitioner, a girl child, was born out of the relationship between the 1<sup>st</sup> and 2<sup>nd</sup> petitioner, when the marital relationship of the 1<sup>st</sup> petitioner with the 4<sup>th</sup> respondent was in existence. Ext. P1 is the birth certificate of the 3<sup>rd</sup> petitioner, and in that birth certificate, the 4<sup>th</sup> respondent is shown as the father of the 3<sup>rd</sup> petitioner and the date of birth of the child is shown as 20.09.2017. The child continued with the 1<sup>st</sup> petitioner and the 4<sup>th</sup> respondent. According to the petitioners, the 4<sup>th</sup> respondent engaged in heated arguments that led to prolonged fights in the matrimonial house, denying the biological parenthood of the 3<sup>rd</sup> petitioner. Therefore, the 1<sup>st</sup> petitioner left the house of the 4<sup>th</sup> respondent on 02.02.2023 at 4 pm. The 4<sup>th</sup> 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 1<sup>st</sup> petitioner and the 4<sup>th</sup> 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 1<sup>st</sup> petitioner married the 2<sup>nd</sup> 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 3<sup>rd</sup> petitioner is wrongly shown as the 4<sup>th</sup> 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 3<sup>rd</sup> petitioner to that of the 2<sup>nd</sup> petitioner instead of the 4<sup>th</sup> 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 4<sup>th</sup> 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 2<sup>nd</sup> petitioner is the biological father of the 3<sup>rd</sup> petitioner and not the 4<sup>th</sup> 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 3<sup>rd</sup> 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 1<sup>st</sup> petitioner is married to the 4<sup>th</sup> respondent. Their marital relationship is in existence. The 4<sup>th</sup> respondent is working in Bangalore. At that time, when the marital relationship was in existence, the 1<sup>st</sup> petitioner fell in love with the 2<sup>nd</sup> petitioner. At that stage, the 1<sup>st</sup>

petitioner has a male child in the marital relationship with the 4<sup>th</sup> respondent. Even then, it seems, the 1<sup>st</sup> petitioner continued her relationship with the 2<sup>nd</sup> petitioner without the knowledge of the 4<sup>th</sup> 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 4<sup>th</sup> respondent was under the bona fide belief that the 3<sup>rd</sup> petitioner was his child born in his wedlock with the 1<sup>st</sup> petitioner. The 4<sup>th</sup> respondent continued to reside with the 1<sup>st</sup> petitioner for about 6 years. During that period, it seems, the 1<sup>st</sup> petitioner continued her relationship with the 2<sup>nd</sup> petitioner. Of course, it gave rise to a fight and matrimonial dispute between the 1<sup>st</sup> petitioner and the 4<sup>th</sup> respondent. On 02.02.2023, the 1<sup>st</sup> petitioner left the residence of the 4<sup>th</sup> respondent along with the 3<sup>rd</sup> petitioner, the minor child. The 4<sup>th</sup> 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 4<sup>th</sup> respondent stated in the First Information Statement that he has two children in wedlock with the 1<sup>st</sup> petitioner and that the 1<sup>st</sup> petitioner left his house along with the 3<sup>rd</sup> petitioner, the minor child. In the First Information Statement, it is also stated by the 4<sup>th</sup> respondent that the 1<sup>st</sup> petitioner was having an illicit relationship with the 2<sup>nd</sup> petitioner, and there was some matrimonial fight between the 1<sup>st</sup> petitioner and the 4<sup>th</sup> respondent about the same. Thereafter, the 1<sup>st</sup> petitioner and the 4<sup>th</sup> 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 1<sup>st</sup> petitioner married the 2<sup>nd</sup> petitioner, as evident by Ext.P4.

9. Even after the marriage of the 1<sup>st</sup> petitioner with the 2<sup>nd</sup> petitioner, and even after knowing that the 3<sup>rd</sup>

petitioner is the child of the 1<sup>st</sup> petitioner in the relationship with the 2<sup>nd</sup> petitioner during the subsistence of the marriage between the 1<sup>st</sup> petitioner and the 4<sup>th</sup> respondent, the 4<sup>th</sup> respondent has not filed any petition to change the birth certificate of the 3<sup>rd</sup> petitioner for correcting the father's name in it as the 2<sup>nd</sup> petitioner. That shows the gentlemanly behaviour of the 4<sup>th</sup> respondent and his affection towards the child, who was with him till the 1<sup>st</sup> petitioner eloped with the 2<sup>nd</sup> petitioner, taking the child. It seems that he does not want the public to know that the 3<sup>rd</sup> petitioner is a child born in an illicit relationship between petitioners 1 and 2 during the subsistence of the lawful marriage between 1<sup>st</sup> petitioner and the 4<sup>th</sup> respondent. I think the 4<sup>th</sup> 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 3<sup>rd</sup> petitioner,

as entered in Ext.P1 birth certificate, is to be changed, and the name of the 2<sup>nd</sup> petitioner is to be added. That shows that the 1<sup>st</sup> petitioner admits her adulterous life with the 2<sup>nd</sup> petitioner when her marital relationship with the 4<sup>th</sup> 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 4<sup>th</sup> respondent. The 4<sup>th</sup> respondent was impleaded as directed by this court. Again, the 1<sup>st</sup> and 2<sup>nd</sup> 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 1<sup>st</sup> petitioner submitted before this Court that she was living in adultery with the 2<sup>nd</sup> petitioner when her marital relationship with the 4<sup>th</sup> respondent was in existence. She became pregnant in the year 2017 and gave birth to the 3<sup>rd</sup> petitioner. At that time, the 1st petitioner was also aware that the 3<sup>rd</sup> petitioner was not the child of

the 4<sup>th</sup> respondent. The 4<sup>th</sup> respondent, who is an unfortunate husband, on a bona fide belief that he is the father of the 3<sup>rd</sup> petitioner, informed the hospital authorities that he is the father of the 3<sup>rd</sup> 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 3<sup>rd</sup> petitioner's minor child was 6 years old, the 1<sup>st</sup> petitioner eloped with the 2<sup>nd</sup> petitioner. That is why I said that the 4<sup>th</sup> respondent is an unfortunate husband. As I mentioned earlier, not only women but also men have dignity, pride, and individuality. If the 1<sup>st</sup> petitioner wants to continue the relationship with the 2<sup>nd</sup> petitioner, there is no problem with her leaving the 4<sup>th</sup> respondent and staying with the 2<sup>nd</sup> petitioner. A perusal of the FIR would show that there was some dispute between the 1<sup>st</sup> petitioner and the 4<sup>th</sup> respondent about the illicit relationship of petitioners 1 and 2. Even then, the 4<sup>th</sup> respondent does not want to leave the 1<sup>st</sup> petitioner. That again shows the gentlemanly attitude of

the 4<sup>th</sup> respondent. Again, as I said earlier, the 4<sup>th</sup> respondent does not want to change the name of the father of the 3<sup>rd</sup> 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 3<sup>rd</sup> petitioner should be changed and that the 2<sup>nd</sup> petitioner's name should be added as the father's name, without impleading the 4<sup>th</sup> 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 3<sup>rd</sup> petitioner, who is the minor child and also the innocent former husband of the 1<sup>st</sup> petitioner, who is the 4<sup>th</sup> respondent herein. The counsel who appeared for the 4<sup>th</sup> 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 4<sup>th</sup> respondent. Moreover, the 3<sup>rd</sup> 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 4<sup>th</sup> 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 3<sup>rd</sup> 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 3<sup>rd</sup> petitioner and 4<sup>th</sup> respondent in the cause title of the judgment when uploading it to the official site of this Court. Even if the 1<sup>st</sup> and 2<sup>nd</sup> 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 4<sup>th</sup> 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 3<sup>rd</sup> petitioner and 4<sup>th</sup> respondent, in a separate sealed cover, if a copy application is filed by the petitioners for the purpose of producing the judgment before the 2<sup>nd</sup>

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 2<sup>nd</sup> respondent for correction of the father's name of the 3<sup>rd</sup> petitioner in Ext.P1 birth certificate, as the 2<sup>nd</sup> petitioner instead of the 4<sup>th</sup> respondent.
2. If such an application is received, the competent authority of the 2<sup>nd</sup> respondent is directed to correct the father's name of the 3<sup>rd</sup> petitioner as the 2<sup>nd</sup> 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 3<sup>rd</sup> petitioner and the 4<sup>th</sup> 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 3<sup>rd</sup> petitioner and 4<sup>th</sup> respondent, in a separate sealed cover, if a copy application is filed for the purpose of producing the judgment before the 2<sup>nd</sup> respondent by the petitioners.

**Sd/-**

**P.V.KUNHIKRISHNAN  
JUDGE**

SKS/JV

Judgment reserved	NA
Date of Judgment	23/02/2026
Judgment dictated	24/02/2026
Draft judgment placed	26/02/2026
Final judgment uploaded	02/03/2026