

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

CON.CASE(C)NO. 131 OF 2014 (S) IN OP (FC).4455/2013

AGAINST THE JUDGMENT IN OP (FC) 4455/2013 OF
HIGH COURT OF KERALA DATED 19-12-2013

PETITIONER(S)/PETITIONER:

PAUL RAJAN MAMPILLY
PALM VIEW, MAMPILLY HOUSE, NJARAKKAL P O
ERNAKULAM, KOCHI-682505

BY ADVS.SRI.V.M.KURIAN
SRI.MATHEW B. KURIAN
SRI.K.T.THOMAS

RESPONDENT(S)/RESPONDENTS:

VEENA THERESA PAUL
D/O.E.J.GEORGE, EDAKKATTUKUDY HOUSE, KOZHIPPILLY
VARAPPETTY, KOTHAMANGALAM, PIN-686691
ALSO AT FLAT NO 1504.15TH FLOOR, G BLOCK
AJMERA INFINITY APARTMENT, NEELADRI PARK
ELECTRONICS CITY, BANGALORE-560100

THIS CONTEMPT OF COURT CASE (CIVIL) HAVING BEEN FINALLY
HEARD ON 10-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ASHOK BHUSHAN, C.J.

and

A.M. SHAFFIQUE, J.

=====
Cont. Case (C) No.131 of 2014
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Dated this the 10th day of April, 2015

J U D G M E N T

Ashok Bhushan, C.J.

This Contempt Case was heard yesterday by us and we directed the parties to go for a mediation as they agreed to go for mediation for amicable settlement between the parties.

2. This Case has been filed by the respondent in O.P(FC) No.4455 of 2013 alleging violation of the judgment of the Division Bench of this Court dated 19.12.2013 in the above Original Petition. The operative portion of the judgment is as follows:

"When the matter was heard, having regard to the fact that the respondent husband did not have even access to the children for a considerably long time, we ourselves

requested the counsel for the petitioner to make available the children during the X'mas eve when the wife will be in Kerala. We are happy to note that the counsel did not have serious objections to that suggestion. In view of the above, we direct that the petitioner shall make available the children at the office of her counsel at 11 am on 27.12.2013 and 28.12.2013. It will be open to the respondent husband to pick up the children from the said office of the counsel, retain the children with him and shall return them to the petitioner at 4 pm on the same day itself, which also shall be at the same venue."

3. Petitioner complained that on the dates on which he was given visiting right the wife did not present the children hence we issued directions to the respondent to be present and the respondent appeared along with the three children. Noticing the agreement of the parties, we directed the parties for mediation on the same day. Request was made by the respondent today to take up the matter again, hence the matter is taken up.

4. We have heard learned counsel for the applicant and the respondent appearing in person.

5. We have been informed by the parties that the parties appeared before the mediation Centre, the mediators are proceeding with the matter and the next date fixed is 18.05.2015. The parties may pursue the mediation proceedings upto its logical conclusion and if any settlement is arrived at they shall be free to file the mediation settlement before the Family Court for appropriate orders.

6. Learned counsel for the petitioner submitted that the children are not being cared properly and they are not given adequate food. He submitted that this Court may issue necessary direction with regard to the welfare of the children. He further submitted that the Family Court has passed an ex parte decree in favour of the petitioner for custody of the children.

7. We considered the submissions and perused the records.

8. As noted above, the Contempt Case is filed

alleging violation of the judgement of the Division Bench. Learned counsel for the petitioner further submitted that in the Contempt Case the respondent did not appear and a Non-bailable warrant was issued to the respondent and she was brought by the Bengaluru police on 09.04.2015.

9. Respondent submitted certain facts. She also submitted that a criminal case is pending against the husband and others before the Chief Judicial Magistrate in Kerala.

10. Since the application is only for taking contempt proceeding, we are of the view that we need not go into other facts and issues in this proceeding. The parties can pursue the respective cases wherever they are pending.

11. Respondent submitted that Bengaluru police personals accompanied her along with the children returned due to some medical problem of one of the

police personals. She submitted that she should be provided sufficient police protection to reach her apartment at Bengaluru. She undertook to take her return journey by bus from Ernakulam to Bengaluru.

12. Now coming to the Contempt Case, direction was given for visiting right to the petitioner on 27.12.2013 and 28.12.2013 which dates have already over.

13. Learned counsel for petitioner submitted that the Family Court has passed an ex parte decree in his favour for custody of the children.

14. In view of the above, we are of the view that no purpose will be served in proceeding with the Contempt Case any further. The parties are free to take such proceedings as permissible under law in support of their respective cases. Submissions made by the learned counsel for the petitioner that the children are not given proper care, adequate food, etc., are to be

considered in appropriate proceedings and not in this Contempt Proceeding. Hence we are of the view that this Contempt Case is only to be closed.

15. The respondent shall produce a copy of this judgment before the District Police Chief, Ernakulam and inform him about the date and time of the return journey to Bengaluru. On furnishing the information, the District Police Chief shall arrange necessary police protection for the journey of the respondent upto her apartment in Bengaluru. Two police personals including one woman shall accompany the respondent throughout her journey.

The Contempt Case is closed.

**ASHOK BHUSHAN,
CHIEF JUSTICE.**

**A.M. SHAFFIQUE,
JUDGE.**

C. C(C) No.131 of 2014

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