

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE P.UBAID**

**TUESDAY, THE 8TH DAY OF SEPTEMBER 2015/17TH BHADRA, 1937**

**Crl.MC.No. 109 of 2015 (D)**  
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**AGAINST THE ORDER IN CRIMINAL MISCELLANEOUS PETITION NO.876 OF 2014  
IN CRIMINAL APPEAL NO.121/2014 OF COURT OF SESSION, PALAKKAD  
DATED 23.10.2014**

**PETITIONERS/PETITIONERS/APPELLANTS :-**  
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- 1. SANTHOSH, AGED 36 YEARS,  
S/O. SREENIVASAN, VANNARPET LAYOUT, VIVEK NAGAR,  
BANGALORE, KARNATAKA STATE.**
- 2. SASIKALA, AGED 60 YEARS,  
W/O. SREENIVASAN, VANNARPET LAYOUT, VIVEK NAGAR,  
BANGALORE, KARNATAKA STATE.**
- 3. SREENIVASAN, AGED 64 YEARS,  
S/O. KANNAYA, VANNARPET LAYOUT, VIVEK NAGAR,  
BANGALORE, KARNATAKA STATE.**

**BY ADVS.SRI.SURIN GEORGE IPE  
SRI.M.V.BIPIN**

**RESPONDENT/RESPONDENT/RESPONDENTS :-**  
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- 1. AMBIKA.R., AGED 28 YEARS,  
D/O. RAJAMANI, H.NO.A17/193, MANNARKAD PARAMBU,  
KARINGARAPULLY P.O., PALAKKAD DISTRICT – 678 551.**
- 2. THE STATE OF KERALA,  
REPRESENTED BY THE PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM.**

**R2 BY SMT. REMA R., PUBLIC PROSECUTOR**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION  
ON 08-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

**rkj**

**Crl.MC.No. 109 of 2015 (D)**  
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**APPENDIX**

**PETITIONER(S)' ANNEXURES :-**  
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**ANNEXURE -1 : TRUE COPY OF THE ORDER DATED 23.10.2014 IN CRL.MISC.  
PETITION NO. 876/2014 IN CRL.APPEAL NO. 121/2014 ON THE FILE  
OF THE COURT OF SESSIONS JUDGE, PALAKKAD DIVISION.**

**RESPONDENT(S)' ANNEXURES :- NIL**  
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**//TRUE COPY//**

**P.A. TO JUDGE**

**rkj**

**P.UBAID, J.**

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**Crl.M.C.No.109 of 2015**

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Dated this the 8<sup>th</sup> day of September, 2015

**ORDER**

The petitioners herein are the appellants in Crl.Appeal No.121 of 2014 of the Court of Session, Palakkad. It is an appeal brought under Section 29 of the Protection of Women from Domestic Violence Act (DV Act), against the order passed by the learned Judicial First Class Magistrate Court-III, Palakkad. As per the impugned order passed by the learned Magistrate, the petitioners are liable to make payment of about Rs.7 lakhs by way of monitory relief, and also maintenance at the rate of Rs.8,000/- per month. In appeal, the learned Sessions Judge granted stay of execution of the impugned order on conditions. One condition is to deposit an amount of Rs.1 lakh within two months from the date of order (23/10/2014), and the other condition is that interim maintenance at the rate of Rs.4,500/- shall be paid by the petitioners from 22.03.2014 onwards, till decision in the appeal. The petitioners are aggrieved by the said conditional order granting stay. The said order is sought to be modified in this proceeding brought under Section 482 Cr.P.C.

2. Orders passed under the DV Act cannot be challenged under Section 482 Cr.P.C. The DV Act is a self contained code providing various remedies, and also the procedure for obtaining such remedies, including right of appeal, and even modification of the orders passed in the main proceedings. Orders passed under such a Special Law which is self contained cannot be challenged, or set aside, or even modified under Section 482 Cr.P.C. which has its own purport, intend, and scope. The proceeding under challenge is not a proceeding regulated, or controlled by the Code of Criminal Procedure. The aggrieved person will have to find his remedy under the Special Law itself. In exercise of the powers under Section 482 Cr.P.C., the High Court cannot transgress into the areas covered by Special Laws. If remedy cannot be found under the Special Law, and if the aggrieved person complains of wrong exercise of jurisdiction by the Sub-ordinate Court, he can very well find his remedies even under Article 227 of the Constitution of India. In no circumstance can such an order be interfered with under Section 482 Cr.P.C. When this legal position was pointed out from the Court, the learned counsel for the petitioners made a request to grant some time to make deposit as ordered by the appellate court, and thus close this proceeding. The impugned order was passed by the appellate court on 23.10.2014. It would be inappropriate for this Court to extend the time at this stage. However, for proper reasons on a genuine

request, the time for deposit can be extended by the appellate court. Leaving such remedy open to the petitioners, to approach the appellate court itself on sufficient ground for extension of time, this Crl.M.C. can be closed. If the petitioners are ready to make deposit, and if the applicant will be benefited by such deposit, the question of granting extension of time can be well thought of by the appellate court.

With these observation, this Crl.M.C. is closed. Furnish a copy of the order to the learned counsel for the petitioners.

Sd/-  
**P.UBAID**  
**JUDGE**

rkj

//TRUE COPY//

P.A. TO JUDGE