

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 14TH DAY OF JULY 2015/23RD ASHADHA, 1937

Cr1.MC.No. 899 of 2015

AGAINST THE ORDER IN Cr1.M.P NO. 59/2015 OF THE SESSIONS COURT,
ALAPPUZHA DATED 09-01-2015

IN M.C NO.74/2014 OF THE JUDICIAL FIRST CLASS MAGISTRATE
COURT, AMBALAPUZHA

PETITIONER:

JYOTHIS K.S, AGED 41 YEARS,
S/O.SANTHAMMA, KOVILAKOM, MARUTHORVATTOM P.O,
CHERTHALA, ALAPPUZHA.

BY ADV. SRI.B.PRAMOD

RESPONDENT:

ATHIRA L, AGED 21 YEARS,
D/O.REETHAMMA, KARUKAPPARAMBIL,
PUNAPRA P.O,
ALAPPUZHA.

BY PUBLIC PROSECUTOR SMT.V.H.JASMINE

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 14-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 899 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

AI: COPY OF THE M.C NO.74/2014 OF THE J.F.C.M COURT,
AMBALAPPUZHA.

AII: COPY OF THE ORDER DATED 28/11/2014 IN C.M.P NO.7906/2014 IN
M.C.NO.74/2014 ON THE FILE OF THE J.F.C.M COURT, AMBALAPPUZHA.

AIII: COPY OF THE ORDER DATED 12/12/2014 IN C.M.P NO.7834/2014
IN M.C.NO.74/2014 ON THE FILE OF THE J.F.C.M COURT, AMBALAPPUZHA.

AIV: COPY OF THE AGREEMENT ENTERED INTO BETWEEN THE PETITTOINER
AND OWNER OF THE BUILDING.

AV: COPY OF THE MEMORANDUM OF APPEAL IN CRL.APPEAL NO.3/2015 OF
THE SESSIONS COURT, ALAPPUZHA.

AVI: COPY OF THE ORDER DATED 9/1/2015 IN CRL.MP.NO.59/2015 IN
CRL.APPEAL NO.3/2015 OF THE SESSIONS COURT, ALAPPUZHA.

RESPONDENT'S ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.899 of 2015

Dated this the 14th day of July, 2015

O R D E R

The petitioner herein is the respondent in a proceeding brought before the Judicial First Class Magistrate Court, Ambalappuzha under Section 12 of the Protection of Women from Domestic Violence Act (for short 'the Act'). In the said proceeding the learned Magistrate passed an interim order under Section 23 of the Act, on 28.11.2014, granting interim order of protection and residence. The said order was later modified by the learned Magistrate on an application brought by the petitioner herein as C.M.P No.7834/2014. Challenging the said modified order the petitioner in the trial court preferred appeal before the Court of Session, Alappuzha as Crl.A No. 3/2015. In the said proceeding, the appellate court passed an order on 9.1.2015, suspending the operation of the order in C.M.P No.7834/2014 till 15.2.2015. It is submitted that the said order was later extended by the appellate court. The petitioner's grievance is regarding this order dated 9.1.2015, suspending the operation of the order passed by the trial court in C.M.P No.7834/2014. The petitioner accordingly seeks a direction under Section 482 of the Code of Criminal Procedure,

setting aside the order of the appellate court dated 9.1.2015, and directing enforcement of the interim order passed by the trial court.

2. On hearing the learned counsel and on a perusal of the materials I find that this petition under Section 482 of the Code of Criminal Procedure cannot be entertained by this Court. The appellate court has passed only an interim order in appeal, suspending the operation of the impugned order. If the petitioner is in any manner aggrieved by the interim order passed by the appellate court, he will have to approach the appellate court itself, and seek appropriate modification in the impugned order, or seek early consideration of the appeal itself. In a matter now pending before the appellate court, this Court cannot interfere under Section 482 of the Code of Criminal Procedure and pass orders. When the petitioner has remedy before the appellate court itself, it will be inappropriate to pass orders under Section 482 of the Cr.P.C. This application brought under Section 482 of the Cr.P.C does not merit consideration. Hence this Criminal Miscellaneous Case is dismissed in limine without being admitted to files.

**P.UBAID
JUDGE**

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