

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 24TH DAY OF JULY 2015/2ND SRAVANA, 1937

Cr1.MC.No. 1010 of 2015

AGAINST THE ORDER IN MC 77/2011 of FAMILY COURT, ALAPPUZHA DATED
06-07-2014

PETITIONER:

GOVINDARAJ, AGED 40 YEARS,
S/O. GOPALAKRISHNA KURUP, THRIVENI BHAVAN
PATTANAKKAD P.O., CHERTHALA,
ALAPPUZHA DISTRICT.

BY ADV. SRI.K.RAMANATHAN

RESPONDENTS:

1. MAYADEVI @ MAYA, AGED 32 YEARS,
W/O. GOVINDARAJ, KUNNUMMEL VEEDU,
EZHUPUNNA SOUTH P.O.
CHERTHALA, ALAPPUZHA DISTRICT - 688 537.
2. SREELAKSHMI, AGED 8 YEARS,
MINOR REPRESENTED BY HER MOTHER MAYADEVI,
EZHUPUNNA SOUTH P.O., CHERTHALA,
ALAPPUZHA DISTRICT - 688 537.
3. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031

R3 BY PUBLIC PROSECUTOR SMT.S.HYMA

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
24-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Cr1.MC.No. 1010 of 2015

APPENDIX

PETITIONER'S ANNEXURES:

A1 - COPY OF THE ORDER IN MC 77/2011 DT. 12.12.13 BY THE FAMILY COURT, ALAPPUZHA.

A2 - COPY OF THE PETITION IN MC 77/2014 FILED BY THE 1ST RESPONDENT U/S. 125 OF CR.P.C BEFORE THE FAMILY COURT ALAPPUZHA.

A3 - COPY OF THE PETITION CMP 34/2014 FILED BY THE 1ST RESPONDENT BEFORE THE FAMILY COURT ALAPPUZHA.

A4 - COPY OF THE ORDER IN CMP 34/2014 IN MC 77/2011 DT. 06.6.14 BY THE FAMILY COURT ALAPPUZHA.

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.1010 of 2015

Dated this the 24th day of July, 2015

O R D E R

The petitioner herein is the respondent in M.C No.77/2011 of the Family Court, Alappuzha. The trial court passed orders in the said proceeding, granting maintenance to the claimants. In the execution proceeding brought by the claimants as C.M.P No.34/2014 notice was given to the petitioner herein. Though he received notice, he remained absent in the proceeding, and he did not opt to make payment of maintenance. In such a situation, the trial court ordered distress warrant against him on 6.6.2014. The said procedural order in C.M.P No.34/2014 is under challenge.

2. On hearing the learned counsel, and on a perusal of the impugned order, I find that the petitioner's remedy lies in the trial court itself. A mere procedural order, issuing distress warrant cannot be quashed by this Court under Section 482 of the Code of Criminal Procedure. The petitioner can very well approach the trial court, make payment of maintenance reasonably, and get the warrant recalled. If any

other relief is possible as regards the maintenance order passed by the trial court, that also can be pursued by the petitioner in the trial court. This petition to quash the order issuing distress warrant, cannot be entertained by this Court.

Hence, this Criminal Miscellaneous Case is dismissed in limine without being admitted to files, and without prejudice to the right of the petitioner to pursue appropriate remedies in the trial court.

**P.UBAID
JUDGE**

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