

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

MONDAY, THE 2ND DAY OF FEBRUARY 2015/13TH MAGHA, 1936

Crl.MC.No. 307 of 2013 ()

PETITIONER(S)/1ST RESPONDENT:-:

**FAKKARUDHEEN,
S/O.ASSAINARKUTTY, THACHANATTUKARA, MANNARKKAD.**

**BY ADVS.SRI.P.VIJAYA BHANU (SR.)
SRI.M.REVIKRISHNAN
SRI.VIPIN NARAYAN**

RESPONDENT(S)/PETITIONER AND STATE:-:

**1. ASYA, AGED 27 YEARS,
D/O.ABDULLA, KARIMBANAKKAL HOUSE, PULISSEERY,
MANARKKAD.**

**2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.**

**R1 BY ADV. SRI.P.K.MOHANAN(PALAKKAD)
R2 BY PUBLIC PROSECUTOR SMT.V.H.JASMINE.**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 02-02-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER(S) EXHIBITS

- ANNEXURE A.** TRUE COPY OF THE C.M.P.NO.4924 OF 2012 PREFERRED BY THE 1ST RESPONDENT HEREIN UNDER SECTION 23 OF THE DOMESTIC VIOLENCE ACT.
- ANNEXURE B.** TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER.
- ANNEXURE C.** TRUE COPY OF THE ORDER DATED 02.11.2012 PASSED BY THE COURT OF JUDICIAL FIRST CLASS MAGISTRATE, MANNARKKAD IN C.M.P.NO.4924 OF 2012 IN M.C.NO.140 OF 2011 PENDING BEFORE THAT COURT.
- ANNEXURE D.** TRUE COPY OF THE COMMUNICATION EVIDENCING THE FACT THAT THE ATTACHMENT ORDERED IN O.P.NO.642 OF 2012 BY THE FAMILY COURT, PALAKKAD WAS LIFTED BY THAT COURT ADDRESSED TO THE SUB REGISTRAR, SUB REGISTRAR OFFICE PARALI.

RESPONDENTS' EXHIBITS

NIL

//True Copy//

P.A. To Judge

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K. Ramakrishnan, J.

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Crl.M.C.No.307 of 2013

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Dated this, the 02nd day of February, 2015.

O R D E R

This is an application filed by the first respondent in C.M.P.No.4924/2012 in M.C.No.140/2011 on the file of the Judicial First Class Magistrate Court, Mannarkkad to quash the order passed in that petition under Section 482 of Code of Criminal Procedure.

2. The case of the petitioner in the petition was that the aggrieved person is the wife of the petitioner and there are litigations pending between them before the Family Court also. An order of attachment has been obtained by the petitioner in the Family Court as per order in O.P.No.642/2012 and the petitioner had filed I.A.No.1141/2012 for lifting the attachment by depositing the amount which the respondent herein wanted to realise from the petitioner as the alleged amount due as a security for protecting her interest and the Family Court has accepted the same and released the attachment order. In spite of that, the petitioner filed a complaint under the provisions of the Protection of Women from Domestic Violence Act, 2005 (hereinafter called 'the Act')

as M.C.No.140/2011 and filed C.M.P.No.4924/2012 restraining the respondents therein including the present petitioner herein from alienating the property scheduled to that petition and the learned magistrate, after hearing both sides, allowed the application. This order is being challenged by the petitioner by filing this petition under Section 482 of Code of Criminal Procedure.

3. When the application came up for hearing today, when it was pointed out that, any order passed by the magistrate under the provisions of the Act is appealable under Section 29 of that Act before the Sessions Court, the Counsel for the petitioner submitted that, that observation may be made and the petition may be disposed of. But, considering the fact that the matter is of the year 2011 and as per Section 12(5) of the Act, the magistrate has to take all endeavor to dispose of every application made under sub-section (1) within a period of sixty days from the date of its first hearing, this court feels that without going to the merits of the petition and leaving open the right of the petitioner to agitate his rights either before the same court or by filing an appeal under Section 29 and directing the magistrate to expedite disposal of

the case within a time frame will be sufficient and that will meet the ends of justice. So, considering the circumstances, this court feels that the petition can be disposed of as follows:

The Judicial First Class Magistrate, Mannarkkad is directed to expedite disposal of the case in M.C.No.140/2011 as expeditiously as possible at any rate within three months from date of receipt of the order and both parties are directed to co-operate with the magistrate in disposing the case. The petitioner is at liberty to raise all his contentions raised by him in this petition before the magistrate and also this order will not affect his right to file an appeal against the impugned order in accordance with law if he is so advised. The parties are directed to appear before the court below on 23.02.2015.

With the above direction and observation, the petition is disposed of.

Office is directed to communicate this order to the concerned court immediately.

Sd/-
K.Ramakrishnan, Judge.

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[True copy]

P.A to Judge