

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 10TH DAY OF AUGUST 2015/19TH SRAVANA, 1937

Crl.MC.No. 239 of 2014 (C)

**C.M.P.3436/2013 IN M.C.NO.100/2011 OF THE JUDICIAL FIRST CLASS MAGISTRATE
COURT, KAYAMKULAM**

PETITIONER(S)/RESPONDENT/RESPONDENT :-

**SUDHEESH, S/O. DIVAKARAN,
SREEMANGALAM VEEDU, PALLAR,
PUSHPAKANDAM P.O., NEDUMKANDAM,
IDUKKI DISTRICT.**

**BY ADVS.SRI.G.BENO
SMT.S.CHYTHANYA**

RESPONDENTS/PETITIONER AND STATE/PETITIONER :-

**1. UMADEVI, D/O. SARASAMMA, MANI BHAVANAM,
KANNAMPALLY BHAGOM AND MURI, KEERIKKAD VILLAGE,
ALAPPUZHA-690 516.**

**2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**

**R1 BY ADVS. SRI.GEORGE VARGHESE(PERUMPALLIKUTTIYIL)
SRI.A.R.DILEEP
SRI.MANU SEBASTIAN**

R2 BY SMT.V.H.JASMINE, PUBLIC PROSECUTOR

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 10-08-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' ANNEXURES :-

**ANNEXURE A1 : TRUE COPY OF THE PETITION IN MC NO.100/2011 OF JFMC,
KAYAMKULAM.**

ANNEXURE A2 : TRUE COPY OF THE AWARD DATED 14.11.2012 OF LOK ADALAT.

ANNEXURE A2(a) : LEGIBLE COPY OF ANNEXURE-A2.

**ANNEXURE A3 : TRUE COPY OF THE PETITION IN CMP NO.3436/2013 IN MC
NO.100/2011.**

ANNEXURE A4 : TRUE COPY OF THE NOTICE OF ANNEXURE-A3.

**ANNEXURE A5 : TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER TO
ANNEXURE-A3.**

RESPONDENT(S)' ANNEXURES :- NIL

//TRUE COPY//

P.A. TO JUDGE

rkj

PUBAID, J.

Crl.M.C.No.239 of 2014

Dated this the 10th day of August, 2015

ORDER

The petitioner herein is the respondent in M.C.No.100 of 2011 of the Judicial First Class Magistrate Court, Kayamkulam, which is a proceeding brought under Section 12 of the Protection of Women from Domestic Violence Act (DV Act). The petitioner herein entered appearance before the learned Magistrate, and resisted the application. Pending the proceeding, the matter was referred to the Lok Adalath for conciliation. The parties came to terms before the Lok Adalath, and accordingly the Lok Adalath passed the Annexure-2 award on 14.11.2012. When the petitioner herein failed to make payment as directed under the Award, the respondents initiated execution proceedings before the learned Magistrate under Section 128 of the Code of Criminal Procedure. It is now pending as CMP No.3436 of 2013. The said execution proceeding is sought to be quashed under Section 482 Cr.P.C., on the ground that the learned Magistrate has no jurisdiction to execute the award, and that the Lok Adalath Award will have to be executed through the Civil Court.

2. On hearing both sides, and on a examination of the relevant provisions in the DV Act, and also the Legal Services Authorities Act, I find that the present application is absolutely meritless, and is liable to be dismissed.

3. Section 21 of the Legal Services Authorities Act (LSA Act) provides that every award of the Lok Adalath shall be deemed to be a decree of the Civil Court, or as a case may be, an order of any other Court. Rule 6(5) of the rules framed under the DV Act provides that the orders passed under the DV Act shall be enforced in the same manner laid down for execution or orders under Section 125 of Code of Criminal Procedure, 1973. An order passed by the regular Court under Section 12 or under Section 23 of the DV Act can be enforced in the manner provided for enforcement of an order passed under Section 125 Cr.P.C. There cannot be a different situation, when an award is passed by the Lok Adalath on a reference made by the learned Magistrate. As already observed, Section 21 of the LSA Act provides that an award passed by the Lok Adalath on a reference made by the Criminal Court will be deemed to be an order passed by the Criminal Court. Here, the Annexure -2 award will have to be deemed to be an order passed by the learned Magistrate, and such an order can definitely be executed or enforced in the manner provided for enforcement of orders under Section 125 Cr.P.C., in view of the clear provision contained in Rule 6(5) of the DV Rules. I do not know why the petitioner contends otherwise that the award will have to be executed through Civil Court. It appears that he relies on a decision of the Honourable Supreme Court as regards an award passed by the Lok Adalath in a prosecution brought under Section 138 of the NI Act. In the said case, the Honourable Supreme Court directed execution through Civil Court because, the terms of the agreement arrived at could not have been executed by the learned Magistrate. Here, the situation is quite different. The situation is well covered by Section 21 of the LSA Act, and

Rule 6(5) of the rules framed under the DV Act. The Annexure-2 award having the force of an order passed by the learned Magistrate can definitely be executed in the manner provided for execution of orders passed under Section 125 Cr.P.C. Hence, I find that the present application does not merit consideration, and the execution proceeding before the learned Magistrate can very well proceed.

In the result, this Crl.M.C. is dismissed.

Sd/-
PUBAID
JUDGE

rkj

//TRUE COPY//

P.A. TO JUDGE