

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.ABRAHAM MATHEW

TUESDAY, THE 2ND DAY OF JUNE 2015/12TH JYAISHTA, 1937

Crl.MC.No. 1499 of 2015 ()

**(CRL.M.P.NO.209/2015 IN CRL.MP.NO. 210/2015 AND CRL.MP.NO.325/2015 OF
JUDICIAL FIRST CLASS MAGISTRATE COURT -II,KOTTARAKKARA)**

PETITIONER :

**GOPINATHAN,S/O.VELAYUDHAN, AGED 65 YEARS,
SINDHU BHAVAN, H.NO.V/565,
VELIYAM, ODANAVATTOM VILLAGE,
KOTTARAKKARA, KOLLAM DISTRICT.**

BY ADV. SRI.B.MOHANLAL

RESPONDENT(S)/COMPLAINANT & STATE :

- 1. STATE,
REPRESENTED BY THE STATION HOUSE OFFICER,
POOYAPPALLY POLICE STATION,
KOLLAM DISTRICT, THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**
- 2. SMT. DIVYA,
W/O.SUNIL, DEEPA MANDIRAM, ARACKAL,
PERUMANNOR P.O, PUNALUR, KOLLAM DISTRICT- 691 545**
- 3. SRI. SUNIL,
S/O.VIDHYADHARAN, SINDHU BHAVAN, CHEPRA P.O.,
VAPPALA, KOTTARAKKARA, KOLLAM -691 512**
- 4. SMT. SARASWATHI,
W/O.VIDHYADHARAN, SINDHU BHAVAN, CHEPRA P.O.,
VAPPALA, KOTTARAKKARA, KOLLAM -691 512**
- 5. SRI.VIDHYADHARAN,
SINDHU BHAVAN, CHEPRA P.O, VAPPALA,
KOTTARAKKARA, KOLLAM- 691 512**

**R1 BY PUBLIC PROSECUTOR SRI.DHANESH MATHEW MANJOORAN
R2 BY ADV. SRI.SYAM J SAM**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 02-06-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

sts

Crl.MC.No. 1499 of 2015 ()

APPENDIX

PETITIONER(S)' ANNEXURES:

- ANNEX A1:** THE TRUE COPY OF THE POSSESSION CERTIFICATE DATED 16.02.2015 ISSUED BY THE VILLAGE OFFICER, ODANAVATTOM TO THE PETITIONER
- ANNEX A2:** THE TRUE COPY OF THE OWNERSHIP CERTIFICATE ISSUED BY THE SECRETARY, VELIYAM GRAMA PANCHAYATH TO THE PETITIONER
- ANNEX A3:** THE TRUE COPY OF THE ORDER DATED 19.01.2015 IN CRL.MP.NO.209/2015 IN CRL.MP.210/2015 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-II, KOTTARAKKARA
- ANNEX A4:** THE TRUE COPY OF THE ORDER DATED 21.01.2015 IN CRL.MP.NO.325/2015 IN CRL.M.P.NO210/2015 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT II, KOTTARAKKARA
- ANNEX A5:** THE TRUE COPY OF THE TREATMENT RECORDS OF THE 2ND RESPONDENT OBTAINED FROM THE MEDICAL COLLEGE HOSPITAL, THIRUVANANTHAPURAM.

RESPONDENT(S)' ANNEXURES: NIL

/TRUE COPY/

P.A.TO JUDGE

sts

K. ABRAHAM MATHEW, J.

CRL.M.C.No.1499 of 2015

Dated this the 2nd day of June, 2015

ORDER

Petition filed under Section 482 Cr.P.C.

2. In this Crl.M.C Annexure-A3 and A4 impugned exparte orders passed by the learned Magistrate under Section 23(2) of Protection of Women from Domestic Violence Act are challenged. The petitioner is not a party to the proceedings in the Magistrate court. His case is that the house in respect of which the orders have been passed is in his exclusive ownership and possession and the orders passed by the Magistrate permitting the petitioner and her children to reside in it is illegal.

3. Heard.

4. If the allegations of the petitioner are true, the Magistrate has to vacate the order passed by her. But this court cannot consider the question of facts arising in this case. So it is only proper that the petitioner is directed to approach the Magistrate with an application to decide the ownership and possession of the property.

In the result, this Crl.M.C is disposed of with a direction to the learned Magistrate to consider the

question of ownership and possession of the property in respect of which the impugned order has been passed. Till then the impugned orders shall not be enforced.

sd/-
K. ABRAHAM MATHEW
JUDGE

R.AV

//True Copy//

PA to Judge