

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 13TH DAY OF JANUARY 2015/23RD POUSHA, 1936

Crl.MC.No. 346 of 2012 ()

MC 76/2009 of JUDICIAL FIRST CLASS MAGISTRATE COURT-I, KODUNGALLUR

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PETITIONER/REVISION PETITIONER/RESPONDENT:

**MOHAMED HUSSAIN, AGED 47 YEARS
S/O.ABDUL RAHIMAN, PATHIYASSERY HOUSE
VALAPPAD VILLAGE, DESOM, CHAVAKKAD TALUK
THRISSUR DISTRICT.**

BY ADV. SRI.RAJIT

RESPONDENTS/RESPONDENTS/STATE & PETITIONER :

**1. STATE OF KERALA, REP.BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-31.**

**2. SUHARA, W/O.KUNJUMOIDEEN, THOTTUNGAL
HOUSE, S.N.PURAM VILLAGE
PORIBAZAR, KODUNGALLUR TALUK-680 664.**

**R2 BY ADV. SRI.C.HARIKUMAR
R2 BY ADV. SRI.VIPIN VARGHESE
R1 BY PUBLIC PROSECUTOR SMT. S. HYMA**

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 13-01-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

CRL.M.C.NO.346/2012

APPENDIX

PETITIONER'S EXHIBITS

**ANNEXURE A COPY OF THE ORDER DATED 24.06.2010 IN M.C.NO.76/2009 OF THE
LEARNED JUDICIAL FIRST CLASS MAGISTRATE COURT,
KODUNGALLUR**

**ANNEXUE B COPY OF THE ORDER DATED 05.01.2012 IN CRL.R.PNO.8/2011 OF THE
SESSIONS COURT, THRISSUR**

RESPONDENT'S EXHIBITS

NIL

// TRUE COPY //

P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C. No.346 of 2012

Dated this the 13th day of January, 2015

O R D E R

The 2nd respondent herein is the divorced wife of the petitioner. In a claim brought by her before the Judicial First Class Magistrate Court-I, Kodungallur under Section 3 of the Muslim Woman (Protection of Rights on Divorce) Act, 1996 as M.C.No.76/2009, the learned Magistrate directed the petitioner herein to pay Rs.1,001/- to her as the value of dower, to pay Rs.6,000/- as maintenance during 'iddath' period, and another amount of Rs.1,20,000/- as reasonable and fair provision. The aggrieved husband approached the Court of Session, Thrissur with Crl.R.P.No.8/2011. But the learned Sessions Judge dismissed the revision on 05.01.2012. Now, the petitioner seeks orders under Section 482 Cr.P.C. quashing the orders passed by the courts below, on the ground that his divorced wife is not entitled to claim maintenance. The claim made by the divorced wife in O.P.No.686/2005 was, by the time, allowed. The petitioner challenges the reasonableness of the quantum of

maintenance awarded by the trial court. Pending this proceeding, both the parties consented for amicable settlement. Accordingly, the matter was referred to mediation. The parties talked over the dispute before the mediator, and came to an amicable settlement. They, accordingly, signed a memorandum of mediation settlement, and the same is before this Court. In mediation, the 2nd respondent herein agreed to receive Rs.2,00,000/- in full and final settlement of her claims in M.C.No.76/2009, and also in O.P.No.686/2005. Accordingly, the 2nd respondent received an amount of Rs.1,50,000/- from the petitioner herein, and the petitioner also consented for withdrawal of the amount of Rs.50,000/- deposited by him in the trial court. I find that the settlement is acceptable and that the amount of Rs.2,00,000/- agreed in settlement will satisfy all the legitimate claims of the 2nd respondent. Accordingly, the memorandum of mediation settlement filed in court is accepted, and the following orders are passed.

- a) The order passed by the Judicial First Class Magistrate Court-I, Kodungallur, in M.C.No.76/2009 dated

24.06.2010 confirmed in revision by the Court of Session in Crl.R.P.No.8/2011, will stand set aside.

- b) As regards the proceeding in O.P.No.686/2005, the petitioner will approach the trial court with necessary application to record the settlement, and to have the proceeding closed, in terms of the settlement arrived at in mediation.
- c) The 2nd respondent herein is permitted to withdraw the amount of Rs.50,000/- deposited by the petitioner in the court below.
- d) The mediation agreement signed by the parties on 18.12.2014 will form part of this order.
- e) A copy of the mediation agreement will be furnished to the petitioner herein, so that he can approach the family court for necessary orders as regards the settlement of the claim in O.S.No.686/2005.

Sd/-

P. UBAID, JUDGE

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