

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

FRIDAY, THE 24TH DAY OF APRIL 2015/4TH VAISAKHA, 1937

Crl.MC.No. 2173 of 2015 ()

AGAINST THE ORDER IN CRL.MP.NO.615/14 IN CRL.A 247/2014 of ADDL.
SESSIONS COURT-I,MAVELIKKARA DATED 15.12.2014

AGAINST THE ORDERIN MC 15/2012 of J.M.F.C.-I, CHENGANNUR

PETITIONER/PETITIONER/APPELLANT:

GOPALAKRISHNAN, AGED 57 YEARS,
S/O.LATE THIRUVANKUTTY, "GIGI BHAVANAM"
VANAVATHUKKARA, THIRUVANDOOR VILLAGE,
ERAMALIKKARA P.O., CHENGANNUR TALUK, ALAPPUZHA DIST.

BY ADV. SRI.N.K.MOHANLAL

RESPONDENTS/RESPONDENTS/RESPONDENTS:

1. RETHNAMMA, AGED 52 YEARS,
PALANIKUNNIL HOUSE, PERANGAD KARA, NEERVILAKOM P.O.
ARANMULA VILLAGE - 688 001.

2. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA 682 031.

BY PUBLIC PROSECUTOR SMT. M.T. SHEEBA

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON
24-04-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Crl.MC.No. 2173 of 2015 ()

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE-A1: TRUE COPY OF THE MEMORANDUM OF CRIMINAL APPEAL 247/2014
HON'BLE ADDITIONAL SESSIONS COURT, MAVELIKKARA.

ANNEXURE-A2: CERTIFIED COPY OF THE ORDER DATED 15.12.2014 IN CRL.M.P
615/2014 IN CRL.APPEAL NO.247/2012 OF HON'BLE ADDITIONAL SESSIONS
COURT, MAVELIKKARA.

ANNEXURE-A3: TRUE COPY OF OP 892/2014 BEFORE FAMILY COURT,
MAVELIKKARA.

ANNEXURE-A4: TRUE COPY OF THE EXEMPTION PETITION FILED BY 2ND
RESPONDENT IN O.P 892/2014

RESPONDENTS' ANNEXURES: NIL

/TRUE COPY/

P.S TO JUDGE

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K. RAMAKRISHNAN, J.

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Crl.M.C.No.2173 of 2015
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Dated this the 24th day of April, 2015.

O R D E R

This is a petition filed by the petitioner challenging the order in Crl.M.P.No.615/2014 in Crl.A.No.247/2014 on the file of the First Additional Sessions Court, Mavelikara under section 482 of the Code of Criminal Procedure.

2. It is alleged in the petition that the first respondent herein filed M.C.No.15/2012 before the Judicial First Class Magistrate Court-1, Chengannur under section 12 of the Protection of Women from Domestic Violence Act claiming maintenance and other reliefs. The learned magistrate allowed the application in part and passed an ex parte order, against which, the petitioner filed Crl.A.No.247/14 before the Sessions Court, Alappuzha with delay condonation application, which was made over to the First Additional Sessions Court, Mavelikara for disposal and he filed Crl.M.P.No.615/2014 for suspending the order passed by the court below and the learned First Additional Sessions Judge earlier passed an order directing the petitioner to deposit Rs.1,000/- per month from 13.12.2014.

Thereafter the petition was advanced and the date was corrected from 13.2.2012 onwards and posted the case to 15.1.2015. This order is being challenged by the petitioner by filing this petition.

3. On going through the allegations, this Court felt that there is no necessity to interfere with the order and so decided to dispose of the matter on admission itself dispensing with notice to the first respondent after hearing the counsel for the petitioner and the Public Prosecutor.

4. The counsel for the petitioner submitted that his grievance was that he was not liable to pay maintenance, but the lower court passed an ex parte order which is being challenged by the petitioner and earlier the First Additional Sessions Judge has directed to deposit only Rs.1,000/- per month from 13.12.2014, but later it was corrected as 13.2.2012, which, according to the learned counsel for the petitioner, is not correct.

5. Heard the Public Prosecutor, Smt.M.T. Sheeba as well.

6. It is seen from the order that the lower court had directed the petitioner to pay maintenance at the rate of Rs.2,500/- per month from the date of petition namely 13.2.2012

and it was an ex parte order. This was challenged by the petitioner by filing appeal with delay condonation application and after delay was condoned, the learned First Additional Sessions Judge inclined to stay execution of clause (b) of the impugned order on condition of depositing Rs.1,000/- per month from 13.12.2014 and it appears to be a mistake. When this was realized, the learned First Additional Sessions Judge after giving notice, suo motu advanced the petition, and since no objection was filed, the learned First Additional Sessions Judge corrected the date as 13.2.2012 because the appellate court had reduced the order of maintenance to be paid to Rs.1,000/- from the date of petition as ordered by the court below which cannot be said to be illegal. So there is no necessity to interfere with the order passed by the court below as no illegality has been committed by the court below in this regard.

7. While this Court was about to dispose of the petition, the counsel for the petitioner submitted that a direction may be given to the lower court to dispose of the appeal itself within time bound manner. Considering the legislative intention of enacting the provision and also considering the mandate

provided under the Statute to dispose of the cases filed under the Act at the earliest time under section 12 of the Act itself, this Court feels that the First Additional Sessions Judge, Mavelikara can be directed to dispose of the appeal itself as early as possible, at any rate, within three months from the date of re-opening the court after summer vacation. The petitioner is granted one months time to deposit the amount as directed by the court below. Till then, coercive steps, if any, taken as directed to be kept in abeyance. The Additional Sessions Judge, Mavelikkara is directed to dispose of the appeal itself as directed above.

With the above directions and observations, this petition is disposed of.

Sd/-

K. RAMAKRISHNAN, JUDGE.

/true copy/

P.S to Judge

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