

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

THURSDAY, THE 13TH DAY OF AUGUST 2015/22ND SRAVANA, 1937

Crl.R.P. No. 338 of 2003 (A)

AGAINST THE ORDER/JUDGMENT IN MC 2/2000 of C.J.M.,KASARAGOD DT. 13-12-2002

REVISION PETITIONER(S)/RESPONDENT:

**SUDHAKARAN S/O. KUNHIRAMA,
MANNIPADY HOUSE, RAMDAS NAGAR,
KUDLU VILLAGE.**

BY ADV. SRI. T.G. RAJENDRAN

RESPONDENT(S)/PETITIONERS:

- 1. INDIRA D/O. BALAKRISHNAN, THERUVATH,
BERIKOLAM, KOLATHUR POST AND VILLAGE.**
 - 2. LOHITH, MINOR, REPRESENTED BY HIS GUARDIAN
MOTHER 1ST RESPONDENT**
 - 3. STATE REPRESENTED BY THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM**
- R3 BY PUBLIC PROSECUTOR SMT. BINDU GOPINATH.**

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 13-08-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K. RAMAKRISHNAN, J.

Crl.R.P.No. 338 of 2003

Dated this the 13th day of August, 2015

O R D E R

This is revision petition filed by the revision petitioner who is the counter petitioner in the lower Court challenging the order passed by the Court below, imposing imprisonment for ten months for non payment of the maintenance amount ordered as per order dated 13.12.2002.

2. Heard the counsel for the revision petitioner and Public prosecutor as there is no appearance for party respondents in spite of notice served on them.

3. The Counsel for the petitioner submitted that the amount claimed is from 12.01.2000 to 11.12.2001 which is more than one year and no application for execution of maintenance amount for more than one year can be entertained. Further period of imprisonment

awarded is excessive.

4. Though the Counsel for the petitioner argued that the execution petition was time barred, there is nothing mentioned in the revision petition as to how this is time barred. If the order was passed later with a direction to pay maintenance from the date of petition then the execution petition filed within one year from the date of order will be perfectly within time.

5. Further as per section 125(3) of the Code of Criminal Procedure, if the Court is satisfied that the counter petitioner had failed to pay the maintenance amount willfully, then Court has got power to impose sentence to the extent of one month for each default. In this case the default is from 12.01.2000 to 11.12.2001. So the period of detention imposed by the Court below cannot be said to be excessive as well. So there is no merit in the revision and the same is liable to be

dismissed.

Revision petition is dismissed. Interim order if any granted is vacated. Office is directed to communicate this order to the concerned Court immediately.

Sd/-

**K. RAMAKRISHNAN
JUDGE**

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