

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 29TH DAY OF SEPTEMBER 2015/7TH ASWINA, 1937

Crl.MC.No. 1806 of 2014 ()

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Crl.Rev.Pet 254/2013 of HIGH COURT OF KERALA
MC 47/2010 of JUDICIAL FIRST CLASS MAGISTRATE COURT - I, PONNANI
=====**

PETITIONER/PETITIONER/REVISION PETITIONER:

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P.PABDUL RAHIMAN, S/O P.P.MUHAMMED HAJI
PATHAYAPURA VEEDU, PATTITHARA P.O., PALAKKAD.**

**BY ADVS.SRI.P.VIJAYA BHANU (SR.)
SRI.M.REVIKRISHNAN
SRI.VIPIN NARAYAN**

RESPONDENTS/RESPONDENTS/RESPONDENTS:

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1. SAREENA, D/O HYDROSE, BIYYAM, PONNANI TALUK
MALAPPURAM DISTRICT-679 577.**

**2. STATE OF KERALA
REPRESENTED BY ITS PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-31.**

**R1 BY ADV. SRI.SANTHEEP ANKARATH
R1 BY ADV. SRI.ARUN MATHEW VADAKKAN
R2 BY PUBLIC PROSECUTOR SRI. JUSTIN JACOB**

**THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 29-09-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

**ANNEXURE A: TRUE COPY OF THE ORDER IN M.C.NO.47 OF 2010 ON THE FILES OF
THE COURT OF JUDICIAL FIRST CLASS MAGISTRATE, PONNANI
DATED 7.7.2012.**

**ANNEXURE B: TRUE COPY OF THE ORDER IN CRL.M.A.NO.3762 OF 2013 IN
CRL.R.P.NO.254 OF 2013 OF THIS HONOURABLE COURT DATED
26.6.2013.**

**ANNEXURE C: TRUE COPY OF THE ORDER IN CRL.M.P.NO.1438 OF 2012 IN
CRL.R.P.NO.50 OF 2012 ON THE FILE OF THE COURT OF SESSIONS
JUDGE, MANJERI DATED 6.3.2014.**

RESPONDENTS' EXHIBITS

NIL

TRUE COPY

P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.1806 of 2014

Dated this the 29th day of September, 2015

O R D E R

The petitioner herein is the respondent in M.C.47/10 of the Judicial First Class Magistrate Court, Ponnani, brought under Section 3 of the Muslim Women (Protection of Rights on Divorce) Act. The learned Magistrate awarded an amount of Rs.27,000/- as maintenance during the period of Iddat, and Rs.9,60,000/- as reasonable and fair provision, by order dated 07.07.2012. Aggrieved by the said order, the petitioner herein preferred a revision before the Court of Session, Manjeri, as Crl.R.P.No.50/2012. In the said proceeding the learned Sessions Judge granted stay of execution of the order, on condition that the revision petitioner shall deposit 50% of the amount due under the impugned order. Aggrieved by the said conditional order, the revision petitioner filed this application under Section 482 Cr.P.C. for modification of the condition imposed by the Court of Session. On 09.06.2015 this Court directed the petitioner to deposit an amount of Rs.3,00,000/- as a condition for suspension of the

condition imposed by the Court of Session. Now, it is submitted that the petitioner has already made deposit of Rs.3,00,000/- as ordered.

2. On hearing both sides, and on a perusal of the impugned order of the learned Magistrate, I find that stay of execution of the order can be granted on a reasonable condition. The direction to deposit 50% of the amount appears to be harsh. That is why this Court ordered to deposit Rs.3,00,000/- as a condition. I feel that the said order can be maintained, and to that extent the impugned order passed by the Court of Session can be modified. The respondent can withdraw the amount deposited by the petitioner.

In the result, this Crl.M.C. is disposed of, maintaining the order of this Court dated 09.06.2015 as a condition for stay of execution of the order in M.C.No.47/2010 of the court below, and modifying the order passed by the learned Sessions Judge to that extent, and also permitting the respondent herein to withdraw the amount in deposit, subject to final orders in the revision.

Sd/-

P. UBAID, JUDGE

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