

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 19TH DAY OF AUGUST 2015/28TH SRAVANA, 1937

Crl.MC.No. 5578 of 2015 ()

CMP. NO.820/2014 OF JUDICIAL FIRST CLASS MAGISTRATE COURT, DEVIKULAM.

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PETITIONER/ACCUSED:

**T. RAJAN, AGED 42 YEARS, S/O. THANGAVEL,
41/5, LATHA COTTAGE MUTHUPATTI,
MADURAI, TAMILNADU.**

BY ADV. SRI.NIRMAL. S.

RESPONDENTS/COMPLAINANT & STATE:

- 1. VANI. P., AGED 40 YEARS,
D/O. LATE N. PADMANABHAN & W/O. MR.T. RAJAN,
COLLEGE LECTURER,
RESIDING AT SRI PADMANABHAN HOUSE,
NEAR GOVT. L.P SCHOOL, DEVIKULAM - 685 613.**
- 2. STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.**

R2 BY PUBLIC PROSECUTOR SMT.S. HYMA.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 19-08-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S ANNEXURES:-

- A1 - TRUE COPY OF THE COMPLAINT FILED DATED 25.06.2014.**
- A2 - TRUE COPY OF THE AFFIDAVIT AND PETITION FILED UNDER 23 TO DATED 25.06.2014.**
- A3 - TRUE COPY OF THE STATEMENT OF OBJECTION DATED 11.11.2014.**
- A4 - TRUE COPY OF THE ORDER DATED 04.07.2015 IN CMP NO. 820/2014.**
- A5 - TRUE COPY OF THE ORDER SHEET IN CMP. NO.820/2014 COMMENCING FROM 19.06.2014.**
- A6 - TRUE COPY OF THE ORDER SHEET IN CMP. NO.820/2014 COMMENCING FROM 25.06.2014.**
- A7 - TRUE COPY OF THE LETTER DIRECTING THE DISTRICT WOMEN PROTECTION OFFICER CALLING FOR THE DOMESTIC INCIDENT REPORT.**

RESPONDENT'S ANNEXURES:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

P.UBAID, J.

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Crl.M.C.No.5578 of 2015

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Dated this the 19th day of August, 2015

ORDER

An order passed by the Judicial First Class Magistrate Court, Devikulam under the provisions of the Protection of Women from Domestic Violence Act is under challenge in this proceeding brought under Section 482 Cr.P.C. Annexure -A4 is the impugned order. On a reading of the impugned order, I find that it is only an interim order under Section 23 of the DV Act. The diary extract shows that the main proceeding is still pending. When such an interim order or final order is passed, the Act itself provides remedy to the aggrieved person. If the petitioner is aggrieved by the said order, he will have to file appeal against the order under Section 29 of the DV Act. I fail to understand why the petitioner has come before this Court under Section 482 Cr.P.C. The Protection of Women from Domestic Violence Act is a self contained code providing different remedies to the aggrieved persons, and also providing the procedure for the proceedings brought under the DV Act. Proceedings under the DV Act cannot be challenged or quashed under Section 482 Cr.P.C. The

learned counsel submitted that the trial court has committed some procedural error. If that is the grievance, or if the trial court has committed some jurisdictional error, then the remedy lies under Article 227 of the Constitution of India. There is no explanation why the petitioner did not file appeal against the impugned order which is purported to be an interim order under Section 23 of the DV Act. I find that this proceeding brought under Section 482 Cr.P.C. cannot be entertained.

In the result, this Crl.M.C. is dismissed in limine without being admitted to files.

rkj

Sd/-
P.UBAID
JUDGE

//TRUE COPY//

P.A. TO JUDGE