

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 11TH DAY OF AUGUST 2015/20TH SRAVANA, 1937

Cr1.MC.No. 5966 of 2014

IN MC 108/2014 OF THE JUDICIAL FIRST CLASS MAGISTRATE
COURT, KODUNGALLUR

PETITIONER/2ND RESPONDENT:

VIJAYAN, AGED 70 YEARS,
KANHIRAPARAMBIL, KAIPAMANGALAM VILLAGE,
CHALINGAD P.O.
KODUNGALLUR TALUK.

BY ADVS.SRI.M.SHAJU PURUSHOTHAMAN
SRI.K.S.RAJESH

RESPONDENT/PETITIONER:

K.RAMYA,
D/O. RAJANI VISWANATHAN, CHERUVALLI HOUSE,
THRIPRAYAR DESOM,
VALAPPAD VILLAGE, CHAVAKKAD TALUK.

R1 BY ADV. SRI.MANSOOR.B.H.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 11-08-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

Cr1.MC.No. 5966 of 2014

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A: COPY OF THE COMPLAINT IN M.C NO.108/2014 DATED 12.2.2014

ANNEXURE B: COPY OF THE CERTIFICATES ISSUED BY THE DEPARTMENT OF OPHTHALMOLOGY OF LF HOSPITAL, ANGAMALY DATED 20.3.2014.

ANNEXURE C: COPY OF THE WRITTEN STATEMENT DATED 20.3.2013.

ANNEXURE D: COPY OF THE COMPLAINT IN M.C NO.66/2013

RESPONDENT'S ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No.5966 of 2014

Dated this the 11th day of August, 2015

O R D E R

The petitioner herein is the 2nd respondent in M.C No.108/2014 of the Judicial First Class Magistrate Court, Kodungallur, which is a proceeding brought under Section 12 of the Protection of Women from Domestic Violence Act (for short 'the DV Act'). The petitioner's request herein, under Section 482 of the Code of Criminal Procedure, is to quash the said proceeding under the DV Act.

2. On hearing both sides, I find that such a relief cannot be granted under Section 482 of Cr.P.C. DV Act is a self contained Act, containing the procedure for proceedings therein. Admittedly, the trial court has not passed any order in the proceedings. If there is any such interim order or final order, the remedy against the order is provided under the Act itself. Just a proceeding brought under the DV Act cannot be questioned or challenged under Section 482 of Cr.P.C. For the High Court to invoke the powers under Section 482 of Cr.P.C, there must be some proceeding under the Cr.P.C. When

proceedings under the DV Act are governed by that Act itself, which is a self contained Act, the parties to such a proceeding will have to find remedies under the Act, or if remedy is not possible under the said Act, the parties will have to approach the High Court under Article 227 of the Constitution of India. Anyway, those matters need not be gone into in detail at this stage. The petitioner's grievance is that the claimant is not entitled to get any relief under the DV Act. His case is that there is no domestic relationship between the claimant and the petitioner, and that in the absence of such relationship, the claimant cannot claim any order under the DV Act. This is a matter to be agitated before the trial court. Right to relief on facts cannot be decided by the High Court under Section 482 of Cr.P.C. Right to get relief is a matter for decision by the trial court itself. Only after decision is taken by the trial court on matters in dispute, the aggrieved party can seek appropriate remedy against such order. If the petitioner's grievance is that the claimant is not entitled, under the law, to seek or get any order under the DV Act, on the ground of absence of domestic relationship, the petitioner will have to agitate the said issue before the trial court itself, and the trial court will have to take a

decision on the disputed question. Exercise of jurisdiction by this Court or by the appellate court will come only when the trial court has taken a decision on the disputed question. With these observations this Crl.M.C is disposed of.

The learned counsel for the petitioner submits that the petitioner is a blind person, and that he will find it difficult to appear in person in the trial court. This grievance also will have to be considered by the trial court.

**P.UBAID
JUDGE**

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