

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 13TH DAY OF NOVEMBER 2015/22ND KARTHIKA, 1937

Cr1.MC.No. 7196 of 2015

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AGAINST THE ORDER DATED 6.7.2015 IN CRL.M.P NO.2/2015 IN M.C  
NO.2/2015 OF THE FAMILY COURT, PALAKKAD.

PETITIONER/RESPONDENT:

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SIVARAJAN, AGED 36 YEARS,  
POOTHOTTUTHARA HOUSE, PALLASSENA POST,  
PALAKKAD-678505.

BY ADVS.SRI.BINOY VASUDEVAN  
SRI.M.R.MANIKANTAN

RESPONDENT/PETITIONER/STATE:

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1. STATE OF KERALA  
REPRESENTED BY THE PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM.

2. SUMATHI, AGED 28 YEARS  
D/O. BALASUBRAMANIAN,  
PANDIYODU VEEDU, THENUR POST,  
PALAKKAD-678612.

R1 BY PUBLIC PROSECUTOR SRI.JUSTIN JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION  
ON 13-11-2015, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:

Cr1.MC.No. 7196 of 2015  
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APPENDIX

PETITIONER'S ANNEXURES:  
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ANNEXURE A- COPY OF THE JUDGMENT DATED 22-05-2015 IN O.P.NO.  
925/2013 ON THE FILE OF THE FAMILY COURT PALAKKAD.

ANNEXURE B- COPY OF M.C.NO. 2/2015 PREFERRED BY THE 2ND  
RESPONDENT BEFORE THE FAMILY COURT.

ANNEXURE C- COPY OF THE OBJECTION PREFERRED BY THE PETITIONER  
IN M.C.NO. 2/2015.

ANNEXURE D- COPY OF THE CRL.M.P.NO.2/2015 PREFERRED BYTHE 2ND  
RESPONDENT.

ANNEXURE E- COPY OF THE OBJECTION PREFERRED BY THE PETITIONER.

ANNEXURE F- COPY OF THE ORDER DATED 6-7-2015 IN M.P.NO. 2/2015  
IN M.C.NO. 2/2015.

RESPONDENTS' ANNEXURES:  
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NIL

//TRUE COPY//

P.A TO JUDGE

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**P.UBAID, J.**

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**Crl.M.C No.7196 of 2015**  
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Dated this the 13<sup>th</sup> day of November, 2015

**O R D E R**

An interim maintenance order passed by the Family Court, Palakkad under Section 125 of the Code of Criminal Procedure is under challenge in this proceeding brought under Section 482 of the Code of Criminal Procedure. The said order is sought to be quashed on the ground that the petitioner's objections were not seriously and effectively considered by the learned trial judge. As regards the normal remedy of revision against such an order, this Court has recently settled the position that an interim maintenance order passed under Section 125 of the Code of Criminal Procedure is purely an interlocutory order, which is not amenable to revision. In the said decision this Court has observed that such an order is always subject to appropriate modifications by the trial court itself, or subject to the final orders to be passed in the main proceeding. When normal remedy by way of revision is not possible, there is no question of this Court, exercising powers under Section 482 of the Code of Criminal Procedure to grant

such a relief which is not normally possible. An interim maintenance order is always subject to final decision by the trial court. The petitioner will have to wait till final decision. All his objections will definitely be considered by the trial court during trial. The petitioner can even make application before the trial court for appropriate modifications in the order passed. When such remedy is possible, or when the order is always subject to final orders, it would be inappropriate and illegal for this Court to exercise the jurisdiction under Section 482 of the Code of Criminal Procedure, and either modify or cancel the said order, which is purely interlocutory in nature. In short, what is normally possible cannot be granted indirectly by the Court under Section 482 of the Code of Criminal Procedure.

In the result, this Criminal Miscellaneous Case is dismissed in limine without being admitted to files, without prejudice to the right of the petitioner to make application for appropriate relief in the trial court itself.

**Sd/-**  
**P.UBAID**  
**JUDGE**

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