

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 10TH DAY OF DECEMBER 2015/19TH AGRAHAYANA, 1937

Crl.MC.No. 7245 of 2015 ()

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Crl.MC 3452/2015 of HIGH COURT OF KERALA
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PETITIONER/HUSBAND/ RESPONDENT IN Crl.M.P.:

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V.V.LAKSHMANAN, S/O.VENKITESWARAN
FLAT NO.G2, GROUND FLOOR, NATARAJ HOMES
DOOR NO.17, PLOT NO.7, BHARATHI STREET
RAMA NAGAR, AMPATTUR, CHENNAI - 400 053.**

BY ADV. SRI.C.A.RAJEEV

RESPONDENTS/COMPLAINANT & STATE:

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1. GEETHA, LAKSHMI NIVAS, PANANTHODI EAST
CHOKKANATHAPURAM P.O., PALAKKAD - 678 005.**

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

R2 BY PUBLIC PROSECUTOR SMT. SHEEBA M.T.

**THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 10-12-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

ANNX.A - TRUE COPY OF THE CRL.M.P.NO4925/10 DATED 27.12.2010

ANNX.B -TRUE COPY OF THE CRL.M.P.NO4924/10 DATED 27.12.2010

ANNX.C - TRUE COPY OF THE ORDER DATED 29.12.2010

ANNX.D - TRUE COPY OF THE COUNTER STATEMENT DATED 22.01.2011

**ANNX.E - TRUE COPY OF THE ORDER DATED 26.06.2015 IN CRL.M.C NO.3452 OF 2015
OF THIS HON'BLE COURT.**

ANNX.F - TRUE EXTRACT OF THE IMPUGNED ORDER DATED 14.10.2015

ANNX.G - TRUE COPY OF THE PROCEEDINGS SHEET IN M.C.NO.48 OF 2010

ANNX.G(I) - TRUE COPY OF THE PROCEEDINGS SHEET IN M.C.NO.48 OF 2010.

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY//

P.A. TO JUDGE

SD

P. UBAID, J.

Crl.M.C.No.7245 of 2015

Dated this the 10th day of December, 2015

O R D E R

The petitioner herein is the respondent in M.C.48/2010 of the Judicial First Class Magistrate Court-II, Palakkad. On an application brought by the claimant as CMP No.4924/2010 under Section 23(2) of the Protection of Women from Domestic Violence Act, 2005 (hereinafter referred to as 'the D.V.Act'), the learned Magistrate passed an ad interim order directing the respondent therein to pay maintenance to the claimant @Rs.4,000/- per month. When he failed to make payment, the claimant initiated execution proceedings, and now it is going on. When the petitioner herein failed to make payment, the learned Magistrate issued Annexure-F order for realisation of the amount of maintenance due, by way of distress warrant. The said order is under challenge in this proceeding brought under Section 482 Cr.P.C.

2. This Court has settled the possession that the proceedings brought under the D.V.Act cannot be quashed by the

High Court under Section 482 Cr.P.C. It is submitted, that in fact an appeal was filed by the petitioner herein against the interim order passed by the learned Magistrate. It is also submitted that the said appeal happened to be dismissed as time barred. Any way, it appears that final orders are yet to be passed by the learned Magistrate on merits in C.M.P.No.4924/2010. As required by this Court, the learned Magistrate submitted a report dated 30.11.2015 regarding the present stage of the case. It is reported that trial in the main case has already commenced, and the respondent therein (petitioner herein) already stands examined in chief. The learned Magistrate has also reported that earnest efforts are being made to dispose of the case as early as possible. Any way, I find that the relief as sought by the petitioner cannot be granted by this Court under Section 482 Cr.P.C. The learned Magistrate has issued a distress warrant, because there is an interim order directing him to pay maintenance to his wife. If disposal of the application for interim relief itself is felt necessary, the learned Magistrate can proceed to decide CMP No.4924/2010 on merits after hearing both sides.

If such a course is not now necessary, or if the main proceeding itself can be disposed of within a short time, trial can proceed. Any way, the warrant issued by the learned Magistrate for enforcement of the order of maintenance cannot be quashed by this Court. If the petitioner is so particular to have CMP No.4924/2010 disposed of at the earliest, before proceeding further in the main proceeding, he can make such a request before the learned Magistrate.

With the above observations, this Crl.M.C. is closed.

Sd/-

P. UBAID, JUDGE

sd

// True Copy //

P.A. to Judge