

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 23RD DAY OF DECEMBER 2015/2ND POUSHA, 1937

Cr1.MC.No. 8024 of 2015

IN M.C NO.23/2013 OF THE JUDICIAL FIRT CLASS MAGISTRATE
COURT -I, KOCHI

PETITIONER/RESPONDENT:

SURAJ SUNNY, AGED 36 YEARS,
S/O.SUNNY, KOCHUPURACKAL HOUSE,
CC XXVI/340,
CHALIYPOCHIL HOUSE,
ST. JOHN PATTAM, FORT KOCHI - 682001

BY ADVS.SRI.K.R.VINOD
MS.JENCY SUSAN JOSE
SRI.V.SRI NATH

RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, 682031
2. NISHA ALEXANDER, AGED 30 YEARS,
W/O.SURAJ SUNNY, ELENJICKAL HOUSE,
CC.XIV/1042 E,
NAZRETH, KOCHI 682002

R1 BY PUBLIC PROSECUTOR SRI.JUSTIN JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR
ADMISSION ON 23-12-2015, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING:

Cr1.MC.No. 8024 of 2015

APPENDIX

PETITIONER'S ANNEXURES

ANNEXURE A1:THE COPY OF THE ORDER IN MC.NO.23/2011 IN THE
FILES OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT I,
KOCHI DATED 30.10.2014

RESPONDENTS' ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

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P.UBAID, J.

Crl.M.C No. 8024 of 2015

Dated this the 23rd day of December, 2015

O R D E R

The petitioner herein is aggrieved by an ex-parte order against him in M.C No.23/2013 of the Judicial First Class Magistrate Court II, Kochi in a proceeding brought by his wife under Section 12 of the Protection of Women from Domestic Violence Act (for short 'the DV Act). He has not so far preferred appeal against the order under Section 29 of the DV Act. In execution proceedings warrant of arrest happened to be issued against him. He seeks orders under Section 482 of the Code of Criminal Procedure, suspending the execution of the warrant of arrest till he files appeal and obtains favourable orders. His grievance is that he has not so far obtained a copy of the order. A perusal of the order shows that on 30.10.2014 itself the learned Magistrate had directed to issue a free copy to the petitioner. Still he complains that he has not received copy. The prayer sought by the petitioner cannot be granted by this Court under Section 482 of Cr.P.C in such a situation. He will have to approach the learned Magistrate who issued warrant, make

substantial payment, and get the warrant recalled. No doubt, his request to recall warrant will be appropriately considered by the learned Magistrate if he could make payment of substantial amount. Considering the facts and circumstances, the fraction to be deposited can be appropriately decided by the learned Magistrate. If he could make substantial payment, and if the learned Magistrate recalled the warrant of arrest, the petitioner can very well, in the meantime, file appeal against the order.

With these observations this Crl.M.C is disposed of.

Sd/-
P.UBAID
JUDGE

//True Copy//

P.A to Judge

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