

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 15TH DAY OF JULY 2015/24TH ASHADHA, 1937

Crl.Rev.Pet.No. 855 of 2015

**AGAINST THE JUDGMENT IN CRA 145/2014 OF ADDITIONAL DISTRICT & SESSIONS
COURT-II, NORTH PARAVUR DATED 20-11-2014.**

**AGAINST THE ORDER IN CMP 2355/2012 OF JUDICIAL FIRST CLASS MAGISTRATE
COURT-II, ALUVA DATED 06-02-2014.**

REVISION PETITIONER/RESPONDENT :-

**BABU T.L.@ THEKKUMPURAM LONAPPAN BABU,
AGED 44 YEARS, S/O.LONAPPAN,
RESIDING AT PUTHUSSERY THEKKUMPURAM HOUSE,
NUALAKAM DESOM, AMBALOOR VILLAGE, MUKUNDAPURAM TALUK,
ALAGAPPA NAGAR P.O., THRISSUR - 680 302.**

**BY ADVS.SRI.S.RAJEEV
SRI.K.K.DHEERENDRAKRISHNAN
SRI.V.VINAY**

RESPONDENTS/PETITIONER/STATE :-

- 1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM - 682 031.**
- 2. JAYA THOMAS @ KALLARACKAL JAYA THOMAS, AGED 42 YEARS,
D/O.LATE THOMAS ISSAC, RESIDING AT KALLARACKAL HOUSE,
BEHIND MODERN BAKERY, EDAPPALLY - 682 021.**

**R1 BY SRI.DHANESH MATHEW MANJURAN, PUBLIC PROSECUTOR
R2 BY ADVS. SRI.TOJAN J. VATHIKULAM
SRI.GEORGE BRISTON**

**THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON
15-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

P.UBAID, J.

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Crl.R.P.No.855 of 2015

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Dated this the 15th day of July, 2015

ORDER

The revision petitioner herein is the respondent in CMP No.2355 of 2012 of the Judicial First Class Magistrate Court-II, Aluva. It is a proceeding brought under Section 12 of the Protection of Women from Domestic Violence Act (PWDV Act). The revision petitioner entered appearance before the trial court and filed a statement of objection that the Court will have no jurisdiction to entertain the petition. When the proceeding came up for trial, the petitioner in the trial court remained absent. However, the learned Magistrate dismissed the application on the finding that the claim is not maintainable. Against the said order dismissing C.M.P.No.2355 of 2012 the petitioner in the trial court preferred appeal before the Court of Session, Ernakulam as Crl.Appeal No.145/2014. In appeal, the learned Additional District and Sessions Judge, North Paravur set aside the order of the trial court and remanded the matter for fresh decision according to law. The said judgment of the appellate court dated 20.11.2014 is under challenge in this Revision.

2. On hearing both sides, I find that the real grievance of the revision petitioner is regarding some observations made by the appellate court in paragraph 10 of the judgment, that the decree obtained by the petitioner herein from a Court in Singapur fraudulently will not have any value in the eye of law. As regards the remand made by the appellate court, it appears, that the petitioner has no grievance. I find that the matter will have to be decided according to law after hearing both the parties. Let the matter be properly and legally decided by the trial court. The question of jurisdiction also will have to be adjudicated on merits by the trial court. Anyway, I find that the observations of the appellate court in paragraph 10 of the judgment regarding the validity of the decree is quite unwarranted. The trial court will have to take a decision on merits, without being influenced by the observations made by the appellate court. Whether the trial court has jurisdiction or not, will have to be independently decided by the trial court on the basis of the law and the materials available.

In the result, this revision petition is disposed of as follows;

(a) The judgment of the Court below in Crl.Appeal.No.145/2014, remanding C.M.P.No.2355/2012 to the trial court for disposal afresh according to law is confirmed.

(b) The trial court will adjudicate the issue regarding the jurisdiction independently and take a decision afresh according to law.

(c) The observations made by the appellate court in paragraph 10 of the appellate judgment shall not in any manner influence the trial court in the process of adjudication.

Sd/-
P.UBAID
JUDGE

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P.A. TO JUDGE