

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

THURSDAY, THE 17TH DAY OF SEPTEMBER 2015/26TH BHADRA, 1937

Crl.Rev.Pet.No. 893 of 2015 ()

CRA 32/2014 of ADDL. SESSIONS COURT - II, KALPETTA
C.M.P.2965/2013 IN MC.29/2013 OF JFCM-1, SULTHAN BATHERY

PETITIONER/APPELLANT:

C.K.SUKUMARAN
S/O.LATE KUNHIKUTTY, KARIPRATH HOUSE, KOOTHUPPARAMBU
KANNUR DISTRICT, NOW RESIDING AT DARULSALAM
MELEKUNNIL HOUSE, T.C.2/2261(1), TPJ ROAD
PATTAM, THIRUVANANTHAPURAM-695004.

BY ADV. SRI.KALEESWARAM RAJ

RESPONDENT/PETITIONER:

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1. KANAKAVALLY K.K.
D/O.LATE KACHUMBRON KARAYI, RAMUNNI VAIDYAR
PUNMOL DESOM, KODIYERI, THALASSERY
KANNUR DISTRICT. NOW RESIDING AT PARVANAM HOUSE
C/O.UMA NARAYANAN, THIRUVANGAD POST
THALASSERY-670101.
 2. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.
- R1 BY ADV. SRI.MANJU ANTONEY
R1 BY ADV. SRI.R.ANAS MUHAMMED SHAMNAD
R2 BY PUBLIC PROSECUTOR, SHRI.V.S.SREEJITH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON
17-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P. No.893 of 2015

Dated this the 17th day of September 2015

ORDER

The revision petitioner is the first respondent in C.M.P.No.2965 of 2013 in M.C. No.29 of 2013 on the files of the Court of the Judicial Magistrate of First Class-1, Sulthan Bathery.

2. The learned Magistrate directed the revision petitioner to pay a monthly interim maintenance at the rate of Rs.4,000/- to the respondent herein as per the interim order passed under Section 23(2) of Protection of Women from Domestic Violence Act (for short 'the Act'). Aggrieved by the said order, the first respondent filed

Crl.Appeal No.32 of 2014, which was dismissed by the appellate court, confirming the order passed by the learned Magistrate. Aggrieved by the said judgment, this revision petition has been filed.

3. Heard. Perused the records.

4. It appears that the first respondent filed an application before the trial court under Section 12 of the Act, alleging domestic violence against the first respondent and claiming maintenance. Along with the said application, the first respondent filed C.M.P. No.2965 of 2013 praying for interim maintenance.

5. The learned Magistrate issued notice to the revision petitioner. After hearing both the sides, the learned Magistrate passed the order directing the revision petitioner to pay a monthly interim maintenance of Rs.4,000/- to the

respondent. It appears that the learned Magistrate passed the order impugned on the *prima facie* satisfaction of the learned Magistrate from the materials placed before the Court by both sides. Since the learned Magistrate passed the order impugned on the *prima facie* satisfaction of the learned Magistrate from the materials produced by both sides, I am not inclined to interfere with the said order, particularly when the revision petitioner is having the liberty to adduce evidence before the learned Magistrate before passing the final order in the matter. Having gone through the relevant inputs, I find no reason to hold that the order passed by the learned Magistrate and confirmed by the appellate court, is not legal, proper or correct warranting interference by this court.

In the result, this revision petitioner stands dismissed.

However, the learned Magistrate is directed to pass the final order in the matter, as expeditiously as possible, in accordance with law, affording reasonable opportunity to both sides to substantiate their contentions.

The respondents herein shall be at liberty to withdraw the amount deposited by the revision petitioner. The revision petitioner is granted two months time to pay the balance arrear amount. Needless to state that if the parties are so willing, the trial court shall consider the feasibility of settling the matter in mediation.

Sd//

**B.SUDHEENDRA KUMAR,
JUDGE.**

dl

/ True copy /

PA to Judge