

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

FRIDAY, THE 21ST DAY OF AUGUST 2015/30TH SRAVANA, 1937

Crl.Rev.Pet.No. 1019 of 2015 ()

C.M.P.1872/2015 in M.C.119/2012 OF THE JUDICIAL FIRST CLASS
MAGISTRATE-I, TIRUR

REVISION PETITIONER/RESPONDENT/RESPONDENT:

KUNHALAVI AGED 52 YEARS
S/O.ALAVI, RAMANARI HOUSE, B.P.ANGADI
TIRUR, MALAPPURAM DISTRICT

BY ADVS.SRI.J.R.PREM NAVAZ
SRI.P.T.SHEEJISH

RESPONDENT/COMPLAINANT:

RASHEEDABI, AGED 46 YEARS,
D/O.NAFEESA, BP.ANGADI, THALAKKADAMSOM DESOM
TIRUR, MALAPPURAM DISTRICT 676101

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY
HEARD ON 21-08-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

K.HARILAL, J.

Crl.R.P. No.1019 of 2015

Dated this the 21st day of August, 2015

ORDER

The petitioner is the respondent in C.M.P. No.1872 of 2015 in M.C. No.119 of 2012 on the files of Judicial First Class Magistrate's Court, Tirur. The above M.C was filed by the respondent herein against the petitioner under Sec.3 of the Muslim Women Protection of Rights on Divorce Act, 1986, seeking maintenance. The petitioner had entered appearance on receipt of the summons and filed a detailed counter. While so, on 24/02/2015, when the case was posted for hearing, neither the respondent/petitioner nor his counsel was present before court and the court below passed the order dismissing the case for default.

2. The above C.M.P was filed under Sec.482 of the Cr.P.C seeking restoration of the M.C which was dismissed for default. After hearing learned counsel for the respondent, the court below passed the impugned order restoring M.C on the files of the court on payment of

Rs.150/- as cost. The legality of this order restoring the complaint on the files invoking jurisdiction under Sec.482 is under challenge in this revision petition.

3. Heard the learned counsel for the petitioner.

4. Perse, the impugned order is illegal and liable to be set aside at the threshold, due to lack of jurisdiction and power. The Magistrate has no jurisdiction or power under Sec.482 of the Cr.P.C and inherent power under Sec.482 of the Cr.P.C. is vested in the High Court only. Thus, the learned Magistrate has exercised jurisdiction which was not vested with the Magistrate Court and illegally restored the complaint on the files.

Consequently, the impugned order is set aside and the order dismissing the MC will stand restored on the files. But the respondent/petitioner is at liberty to seek appropriate remedy in accordance with law and this order will not stand in the way of such remedies, provided under law.

Sd/-

**K.HARILAL
JUDGE**