

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 11TH DAY OF DECEMBER 2015/20TH AGRAHAYANA, 1937

CrI.Rev.Pet.No. 1285 of 2015 ()

JUDGMENT IN CRA 442/2013 OF THE SESSIONS COURT, ALAPPUZHA DATED
04-08-2015 & THE ORDER IN MC 138/2010 OF J.M.F.C.-II, CHERTHALA
DATED 28-09-2013

REVISION PETITIONER(S)/APPELLANT/COUNTER PETITIONER:

LALAPPAN, AGED 48 YEARS
S/O.LATE THANKAPPAN, RESIDING AT NARATHURUTHU
KANNANKARA PO, CHERTHALA

BY ADVS.SRI.T.JAYAKRISHNAN
SRI.R.KRISHNAKUMAR (CHERTHALA)

RESPONDENT(S)/RESPONDENT/STATE & COMPLAINANT:

1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM 682031
2. SUSEELA, AGED 44 YEARS,
NARATHURUTHU, KANNANKARA PO,
CHERTHALA 688524

R2 BY ADV. SRI.VISHNURAJ
R1 BY PUBLIC PROSECUTOR SMT.SHEEBA M.T.

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 11-12-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

BKA/-

P. UBAID, J.

Crl. R.P. No. 1285 of 2015

Dated this the 11th day of December, 2015

ORDER

The revision petitioner herein is aggrieved by an order against him in a proceeding brought by his wife under Section 12 of the Protection of Women from Domestic Violence Act (for short, "the DV Act"). The learned Judicial First Class Magistrate Court-II, Cherthala passed orders on 28.09.2013 in M.C.No.138/2010, directing him to pay maintenance to his wife at the rate of ₹2,000/- (Rupees two thousand only) per month and also a compensation of ₹50,000/- (Rupees fifty thousand only). Aggrieved by the said order, the revision petitioner approached the Court of Sessions, Alappuzha under Section 29 of the DV Act with Crl.Appeal No.442/2013. The learned Appellate Judge concurred with the findings of the learned Magistrate, and dismissed the appeal on 04.08.2015. The aggrieved husband has approached this

Court in revision.

2. The claimant in the court below is the 2nd respondent herein. She entered appearance through learned counsel. On hearing the learned counsel for the revision petitioner and on a perusal of the orders passed by the courts below, I find that, as regards the maintenance awarded by the courts below, there is absolutely no reason for interference. What is awarded by the trial court is only ₹2,000/- per month. The marriage admittedly subsists, and the claimant admittedly does not have any job or source of income. It has come out in evidence that she has some disease, for the treatment of which also, she requires some amount. There is nothing to show that the revision petitioner is disabled to earn for his livelihood. I find that the amount of ₹2,000/- per month granted as maintenance by the courts below is quite reasonable, and it does not require any interference by this Court.

4. As regards the other award, granting a

compensation of ₹50,000/- to the 2nd respondent, I find that some interference is necessary. The order passed by the learned Magistrate does not show why such an amount is awarded as compensation. It is not known whether it is granted as litigation expenses, or for any loss sustained by the claimant. In short, the order does not contain any reason for such an award. The learned Appellate Judge also found, that the claimant is entitled to get ₹50,000/-. However, the learned Appellate Judge found that the claimant has some grievance against the husband that a false allegation was made by him that she has some mental problem. In fact, she is alright. But, without any basis, the husband made such an allegation. No doubt, such an allegation will cause mental pain to the claimant. It has also come out in evidence that she requires some amount for treatment. What is granted as maintenance is only ₹2,000/- per month. Though the order does not contain the exact or convincing reason for such an award, I find that the claimant requires some

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amount in the present circumstances. I find that an amount of ₹25,000/- (Rupees twenty five thousand only) will be sufficient under the head of “compensation”.

In the result, the revision petition is allowed in part. The order, granting maintenance, passed by the courts below will stand confirmed in revision. However, the order of the court below, granting an amount of compensation of ₹50,000/- (Rupees fifty thousand only) will stand modified, and the amount of compensation will stand reduced by ₹25,000/- (Rupees twenty five thousand only). The parties will bear their respective costs.

Sd/-
P. UBAID
JUDGE

bka/14.12.2015

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PA to Judge