

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 27TH DAY OF NOVEMBER 2015/6TH AGRAHAYANA, 1937

Crl.Rev.Pet.No. 1501 of 2015

**AGAINST THE ORDER/JUDGMENT IN CRA 114/2015 of ADDL. D.C. KOZHIKODE- II
DATED 09-10-2015**

**AGAINST THE ORDER/JUDGMENT IN MC 179/2013 of J.M.F.C.-I,KOYILANDY DATED
REVISION PETITIONER(S)/RESPONDENTS :-**

- 1. ABRAHAM CHACKO, AGED 62 YEARS,
S/O.CHACKO, VALUMMEL HOUSE,
KATTAPPANA, IDUKKI.**
- 2. ELSAMMA ABRAHAM, AGED 56 YEARS,
W/O.ABRAHAM, VALUMMEL HOUSE,
KATTAPPANA, IDUKKI.**

**BY ADVS.SRI.JOBY JACOB PULICKEKUDY
SRI.ANIL GEORGE
SRI.K.S.SUMEESH**

RESPONDENT(S)/APPELLANT & STATE :-

- 1. RASMI AUGUSTINE, AGED 33 YEARS,
D/O.AUGUSTINE, PAIMPILLIL HOUSE,
KILIRAMMUTTY P.O, KOODARANHI,
KOZHIKODE TALUK,
REPRESENTED BY POWER OF ATTORNEY
HOLDER MANUMON ABRAHAM, AGED 41 YEARS,
S/O.AUGUSTINE, PAIMPILLIL HOUSE, KILIRAMMUTTY P.O.,
KODDARANHI, KOZHIKODE TALUK, PIN - 673 604.**
- 2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, PIN - 682 031.**

R BY SRI.JUSTIN JACOB, PUBLIC PROSECUTOR

**THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON
27-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

P.UBAID, J.

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Crl.R.P.No.1501 of 2015

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Dated this the 27th day of November, 2015

ORDER

The petitioners herein are the respondents in M.C.No.179 of 2013 of the Judicial First Class Magistrate Court, Koyilandy. It is a proceeding brought under Section 12 of the Protection of Women from Domestic Violence Act (DV Act). The petitioners therein also brought CMP No.1045 of 2015 for some interim relief under Section 23 of the DV Act as regards the interim custody of the child. After hearing both sides, the learned Magistrate dismissed the said application on 5.3.2015. The aggrieved petitioners approached the Court of Session, Kozhikode with Crl.Appeal No.114 of 2015. The learned Additional Sessions Judge-III, Kozhikode set aside the order passed by the learned Magistrate, and granted leave to the claimant to file appropriate application for interim custody before the learned Magistrate whenever she comes from

Scotland, either personally or through an agent, till the issue regarding permanent custody of the child is settled by the family court. The order of the appellate court shows that the claimant was in fact not in India, or within the jurisdiction of the learned Magistrate when she made application for interim custody. Anyway, on merits the learned Magistrate disallowed the request as regards interim custody, and dismissed the application for interim relief. The learned Additional Sessions Judge has not granted any interim relief to the claimant. She is only allowed to make necessary application in future, when she comes from Scotland, for interim custody of the child, and the learned Session Judge has also observed that such a proceeding, or even the interim orders passed by the learned Magistrate will be subject to the final decision taken by the family court. It is not known how these revision petitioners are aggrieved by the said order. Presently, there is no positive order or enforceable order against these petitioners. I find that this Criminal Revision Petition does not merit consideration now.

In the result, this Criminal Revision Petition is dismissed in limine, without being admitted to files. It is made clear that

the petitioners can seek appropriate relief as and when orders are passed by the trial court, on any application filed by the claimant, as observed and permitted by the Court of Session.

Sd/-

**P.UBAID
JUDGE**

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P.A. TO JUDGE