

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

Crl.Rev.Pet.No. 1530 of 2015 ()

JUDGMENT IN CR.A 464/2013 OF THE SESSIONS COURT, ERNAKULAM
DATED 22-11-2014 & ORDER IN MC 23/2010 OF THE ADDL.C.J.M. (E&O) ,
ERNAKULAM DATED 17-08-2013

REVISION PETITIONER(S) /RESPONDENT/RESPONDENT:

ABDUL NASAR, AGED 38 YEARS
S/O.ABDUL RAHMAN, PALLIPARAMBU, RAHMANIA MANZIL
KATTUSSERY DESOM, ALATHUR P.O., PALAKKAD DISTRICT
PIN-678541.

BY ADV. SRI.LIJOY P.VARGHESE

RESPONDENT(S) /APPELLANTS/PETITIONERS:

1. FOUSI, AGED 36 YEARS
D/O.MUHAMMED ISMAIL, ANUMANDOMTHODI HOUSE
HIDAYATH NAGAR, KALATHODU, OLLUKKARA P.O.
THRISSUR DISTRICT, PIN-680655.
2. MINOR ALFI JINAN, AGED 12 YEARS
(MINOR REPRESENTED BY THEIR MOTHER AND
GUARDIAN 1ST RESPONDENT FOUSI).
3. MINOR ALTHAF RAHMAN, AGED 8 YEARS,
(MINOR REPRESENTED BY THEIR MOTHER AND
GUARDIAN 1ST RESPONDENT FOUSI).
4. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

R1-R3 BY ADV. SRI.VINOY VARGHESE KALLUMOOTTILL
R4 BY PUBLIC PROSECUTOR SRI.JUSTIN JACOB

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

BJA/-

APPENDIX

PETITIONER' (S) EXHIBITS:

- ANNEXURE 1 COPY OF JUDGMENT DATED 22.11.2014 IN CRL.APPEAL NO.464/13
OF THE SESSIONS JUDGE, ERNAKULAM.
- ANNEXURE 2 COPY OF THE ORDER DATED 17.08.2013 OF THE ACJM COURT
(E.O), ERNAKULAM IN M.C.NO.23/2010
- ANNEXURE 3 COPY OF THE NOTICE ISSUED BY THE 1ST RESPONDENT TO THE
PETITIONER.
- ANNEXURE 4 COPY OF THE PROCEEDINGS BEFORE THE PEOPLES COUNCIL FOR
SOCIAL JUSTICE, VALANJAMBALAM, ERNAKULAM.
- ANNEXURE 5 COPY OF THE COMPLAINT REGISTER OF THE HILL PALACE POLICE
STATION PERTAINING TO THE YEAR 2010.

RESPONDENT' (S) EXHIBITS: NIL

//TRUE COPY//

PA TO JUDGE

bka/-

P. UBAID, J.

Crl. R.P. No. 1530 of 2015

Dated this the 11th day of December, 2015

ORDER

The revision petitioner herein is aggrieved by an order, directing him to pay maintenance to his wife at the rate of ₹1,500/- per month under the provisions of the Protection of Women from Domestic Violence Act (for short, "the DV Act"). His wife brought the claim before the Additional Chief Judicial Magistrate, Ernakulam as MC No.23/2010 under Section 12 of the the DV Act. The claim for maintenance made by the wife was disallowed by the learned Magistrate and the children were granted maintenance at the rate of ₹1,250/- each as per the order dated 17.08.2013. Aggrieved by the order disallowing maintenance, the petitioner's wife approached the Sessions Court, Ernakulam with Crl.Appeal No.464/2013 under Section 29 of the DV Act. On an appreciation of the evidence, the learned Appellate Judge found that the

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petitioner's wife is also entitled to get maintenance. Accordingly, her prayer was allowed and the revision petitioner was directed to pay maintenance to the wife also at the rate of ₹1,500/- per month by judgment dated 22.11.2014. The said order is under challenge in revision.

2. On a perusal of the materials and on hearing the parties, I find that maintenance was rightly allowed to the wife by the appellate court at the rate of ₹1,500/- per month. The learned Magistrate disallowed the claim on the ground that the claimant failed to prove domestic violence. In fact, it is admitted in this case that the claimant has no job or source of income. The marriage tie still subsists and the claimant is residing away from her husband. During trial, it came out in evidence that the husband has deserted the wife. In such a situation, the wife is definitely entitled to maintenance, because, such desertion will amount to economic abuse amounting to domestic violence under the provisions of the DV Act. I

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find that maintenance was rightly allowed by the learned Appellate Judge in the facts and circumstances of the case. I find no reason for interference in revision in the order passed by the appellate court.

In the result, the revision petition is dismissed in limine without being admitted to files.

Sd/-
P. UBAID
JUDGE

bka/14.12.2015