

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 10TH DAY OF DECEMBER 2015/19TH AGRAHAYANA, 1937

Crl.Rev.Pet.No. 2616 of 2011 (O)

JUDGMENT IN CRL.APPEAL NO.214/2009 OF THE ADDITIONAL DISTRICT &
SESSIONS JUDGE, FAST TRACK COURT NO.1, THRISSUR DATED 14-02-2011
ARISING FROM THE ORDER IN MC NO.54/2008 OF JUDICIAL FIRST CLASS
MAGISTRATE, WADAKKANCHERRY DATED 29-01-2009

REVISION PETITIONER(S)/APPELLANT/COUNTER PETITIONER:

JOSEPH, S/O VARATHUNNY,
PANAKKAL HOUSE, P.O.AVANOOR.

BY ADV. SRI.P.C.SASIDHARAN

RESPONDENT(S)/RESPONDENTS/APPLICANTS:

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1. MERI, W/O JOSEPH,
KODAKKULAM HOUSE, PADOOKKAD DESOM
THRISSUR DISTRICT-680 001.
 2. SIMI, S/O. JOSEPH,
KODAKKULAM HOUSE, PADOOKKAD DESOM
THRISSUR DISTRICT-680 001.
 3. SIJI, D/O. JOSEPH,
KODAKKULAM HOUSE, PADOOKKAD DESOM
THRISSUR DISTRICT-680 001.
 4. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

R1-R3 BY ADV. SRI.K.B.GANGESH

R4 BY PUBLIC PROSECUTOR SRI.JUSTIN JACOB

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 10-12-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

P. UBAID, J.

Crl. R.P. No. 2616 of 2011

Dated this the 10th day of December, 2015

ORDER

The revision petitioner herein is the respondent in MC No.54/2008 of the Judicial First Class Magistrate Court, Wadakkanchery, which is a proceeding brought under provisions of of the Protection of Women from Domestic Violence Act (for short, "the DV Act"), seeking various reliefs like maintenance, rent for alternate accommodation, protection order, compensation etc. The revision petitioner entered appearance and made contest. The learned Magistrate conducted an enquiry in the proceedings and recorded evidence. On an appreciation of the evidence, the learned Magistrate found that the claimant is entitled to get maintenance and also rent for alternate accommodation. The learned Magistrate also found that in the circumstances, where there is some threat of mental or physical assault, the claimant is

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entitled to get protection order also. Accordingly, the learned Magistrate passed orders on 29.01.2009, restraining the revision petitioner from committing any act of domestic violence against the wife and also directing him to pay maintenance to her at the rate of ₹3,000/- per month and rent for alternate accommodation at the rate of ₹1,500/- per month.

2. Aggrieved by the order of the learned Magistrate, the revision petitioner preferred an appeal before the Sessions Court, Thrissur as Crl.Appeal No.214/2009. On an appreciation of the evidence adduced on both sides, the learned Appellate Judge concurred the findings of the trial court as regards the three reliefs granted, and accordingly, the learned First Additional Sessions Judge dismissed the appeal on 14.02.2011. The said order is under challenge in revision.

3. On a perusal of the judgments of the courts below, I find that there is no reason or scope for interference by this Court in revision. The claimant has

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admittedly been residing in a rented house. The marital tie admittedly subsists. The revision petitioner has no case that his wife has any job or source of income. In such a factual situation, the wife is entitled to get maintenance either under Section 125 of Cr.P.C. or under the provisions of the DV Act or even under the Civil Law applicable to the parties. The amount awarded by the learned Magistrate is only ₹3,000/- per month. On a consideration of the present social circumstances, including the cost of living, which is always on the increase, and also the revision petitioner's source of income, I find that ₹3,000/- per month cannot be said to be unreasonable or excessive. The claimant does not have any sort of income for her sustenance. Thus, I find that the amount granted by the courts below is quite reasonable.

4. When the claimant has been residing, admittedly, in a rented house and when she has no source of income to meet the expenses including rent, it is the

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liability and responsibility of the husband to provide rent for the said accommodation also. What is granted by the courts below is only ₹1,500/- per month. It is not known where the lady can obtain a rented house for just ₹1,500/- per month. Anyway, she is satisfied and she does not challenge the order. I find that the order does not require any interference in revision. As regards the protection order also, I find that such an order is necessary in the circumstances, where there is some threat of some sort of physical or mental harassment by the husband. The court can grant such a relief if there is possibility of such threats, whether the claimant is a resident of the shared house or not. I find no reason to interfere in the said order also.

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

Sd/-
P. UBAID
JUDGE

bka/11.12.2015

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PA to Judge