

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 18TH DAY OF MARCH 2015/27TH PHALGUNA, 1936

Crl.Rev.Pet.No. 1676 of 2014

**JUDGMENT DATED 02-07-2014 IN CRA 593/2013 OF& SESSIONS COURT, ERNAKULAM
ORDER DATED 28-10-2013 IN CRMP.NOS. 3156/2012, 3257/2012 & 3158/2012 of
JUDICIAL MAGISTRATE FIRST CLASS-I, KOCHI**
.....

REVISION PETITIONER(S)/RESPONDENT/PETITIONER:

**NOORJAHAN P.A., AGED 56 YEARS,
W/O.MOHAMMED ASHRAF K.I., RESIDING AT KAKKAT HOUSE,
THOPPIL, EDAVAKKAD P.O., ERNAKULAM-682 502.**

**BY ADVS.SRI.ASHIK K.MOHAMMED ALI
SMT.SAJNA T.UMMER**

RESPONDENT(S)/APPELLANT/ACCUSED/RESPONDENT AND STATE:

- 1. MOHAMMED ASHRAF K.I., AGED 62 YEARS,
S/O.IBRAHIM HAJI, S.B.NILAYAM, THAYYEZHATHU LANE,
NAYARAMBALAM, NAYARAMABALAM VILLAGE-682 509.**
- 2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM-682 031.**

**R1 BY ADVS. SRI.T.H.ABDUL AZEEZ
SRI.V.A.AJMAL**

R2 BY PUBLIC PROSECUTOR SRI.JIBU P. THOMAS

**THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON
18-03-2015 ALONG WITH CRRP.NO.2134/2014, THE COURT ON
THE SAME DAY PASSED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' ANNEXURES:

ANNEUXRE A1: TRUE COPY OF THE PETITION FILED BEFORE THE COURT OF THE JUDICIAL MAGISTRATE OF THE FIRST CLASS-I, KOCHI AS MC.NO.35 OF 2012.

ANNEXURE A2: TRUE COPY OF THE COMMON ORDER DTD.28.10.2013.

ANNEUXRE A3: TRUE COPY OF THE ORDER DTD.27.1.2014 IN CRL.M.C. 496 OF 2014 OF THIS HONOURABLE COURT.

ANNEXURE A4: TRUE COPY OF THE PETITIONER DATED 1.3.2014 IN MC.NO.35 OF 2012 AS CRL.M.P.NO.920A OF 2014.

ANNEXURE A5: TRUE COPY OF THE ORDER DTD.2.7.2014 IN CRL.APPEAL NO.593 OF 2013.

ANNEUXRE A6: TRUE COPY OF THE STATEMENT PRODUCED BEFORE THE STATE HUMAN RIGHTS COMMISSION, THIRUVANANTHAPURAM.

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.S.TO JUDGE

B.KEMAL PASHA, J.

.....
CRL. R.P. Nos.1676 & 2134 of 2014
.....

Dated this the 18th day of March, 2015

COMMON ORDER

Both these Crl.R.Ps. are filed by challenging the common judgment dated 02.07.2014 rendered by the learned Sessions Judge, Ernakulam in Crl.Appeal No.593/2013 along with Crl.Appeal No.592/2013. Both these Criminal Revisions are confined to the judgment in Crl.Appeal No.593/2013. The said appeal has arisen from order dated 28.10.2013 passed by the Judicial First Class Magistrate's Court-I, Kochi in M.P.No.3158/12 in M.C.No.35/2012 filed under Section 23 of the Protection of Women From Domestic Violence Act, 2005(hereinafter referred to as 'the Act').

2. It seems that, by way of interim order, the learned

Magistrate had passed an order directing the respondent in M.C.35/2012 to pay an amount of Rs.50,000/- per month as maintenance to the petitioner in the M.C. The said order was challenged in appeal as aforesaid. The Appellate Court has reduced the amount to Rs.20,000/- per month. Both the parties have come up in revision before this Court.

3. On hearing both the sides, this Court is of the view that the said decision rendered by the Appellate Court is only with regard to an interim arrangement of payment of maintenance during the pendency of the proceedings before the trial court. The trial court shall take an independent view in the matter at the time of the final disposal of M.C.35/2012. Therefore, both these revisions are disposed of by directing the learned Magistrate to take an independent view in the matter, with regard to the maintenance at the time of the final disposal of M.C.35/2012, quite untrammelled by any of the observations made by both the courts below in the matter of maintenance. Till a final decision is taken in the

matter by the trial court, the present arrangement shall continue.

4. The learned counsel for the petitioner in the Crl.R.P.1676/2014 has pointed out that even the interim maintenance ordered by the Appellate Court is not fully paid. In case of any such violation, it will constitute an offence punishable under Section 31 of the Act read with Rule 15(8) of the Protection of Women From Domestic Violence Rules 2006.

With the aforesaid observations, these Crl.R.Ps. are disposed of.

Sd/- B.KEMAL PASHA, JUDGE

ul/-

[True copy]

P.S. to Judge