

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

THURSDAY, THE 3RD DAY OF DECEMBER 2015/12TH AGRAHAYANA, 1937

Crl.Rev.Pet.No. 2105 of 2014 ()

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Crl.A. 345/2013 of II ADDITIONAL SESSIONS JUDGE, KOLLAM
CMP No.3503/2013 IN M.C.No.19/2013 OF CHIEF JUDICIAL MAGISTRATE COURT,
KOLLAM
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REVISION PETITIONER/APPELLANT/FIRST COUNTER PETITIONER:-:

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PRASANNAKUMAR, AGED 49 YEARS
S/O.SIVADASA PANICKER, ANUGRAHA, PUNNATHALA SOUTH
PSRA 151-A, THANGASSERY P.O., KOLLAM - 12.**

**BY ADVS.DR.K.P.SATHEESAN (SR.)
SRI.M.R.JAYAPRASAD
SRI.P.MOHANDAS (ERNAKULAM)
SRI.ANOOP.V.NAIR
SRI.S.VIBHEESHANAN**

RESPONDENTS/STATE & FIRST RESPONDENT/PETITIONER:-:

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1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM, KOCHI - 682 031.**

**2. VIMALADEVI,
W/O.SIVADASA PANICKER, KAVADIYIL, SIVADASA BHAVAN
MUNDAKKAL WEST, KOLLAM - 691 001.**

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

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 03-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

SD

P. UBAID, J.

Crl.R.P.No.2105 of 2014

Dated this the 3rd day of December, 2015

O R D E R

The revision petitioner herein is the 1st respondent in M.C.No.19/2013 of the Chief Judicial Magistrate Court, Kollam. It is a proceeding brought by his own mother under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (for short, 'the D.V.Act'). On an application made by the mother in the said proceeding under Section 23 of the Act, the learned Magistrate passed interim orders on 02.08.2013 directing the revision petitioner to pay maintenance to his mother @ Rs.5,000/- per month, restraining him from committing any act of domestic violence against the mother, and also restraining him from alienating the shared household. Aggrieved by the said order, the revision petitioner approached the Court of Session, Kollam with Criminal Appeal No.345/2013. The learned II Additional Sessions Judge concurred the findings of the trial court and dismissed the appeal on 28.10.2014. The said order is under challenge in this revision.

2. When this revision came up for hearing, there was nobody to represent the revision petitioner. However, this revision is being disposed of on merits. On a perusal of the order passed by the learned Magistrate and the appellate order passed by the learned Additional Sessions Judge, I find that the interim order passed by the learned Magistrate is absolutely necessary in the present circumstances to protect the interest of the aged mother and to provide protection to her from any act of domestic violence including dispossession from the shared household. Records reveal that she was aged 76 years as on the date of filing of the petition. The two respondents in the court below are her son and daughter-in-law. It is quite unfortunate that the aged mother had to come to court for maintenance and protection.

3. The order passed by the court below is only an interim order under Section 23 of the D.V.Act which is subject to the final orders to be passed in the main proceeding. What exactly must be the quantum of maintenance which the mother deserves, or which she needs in the present circumstances, whether she has

any other roof to sleep under, or whether she can be compelled to remove herself from the shared household, or whether she in fact requires any order of protection, are all matters to be decided by the trial court in the main proceeding. What is now granted is only an interim arrangement, mainly for the maintenance of the mother. In the special circumstances of the mother who is now nearing 80 years of age, the son cannot have any serious grievance as regards the amount of maintenance. Any way, let the things be decided appropriately by the learned Magistrate in the main proceeding. I do not find any reason or ground for interference in the order passed by the courts below.

In the result, this petition is dismissed in limine, without being admitted to files. However, the learned Magistrate is hereby directed to expedite the trial in M.C.No.19/2013, and dispose it of on merits at the earliest, giving top priority to the case on a consideration of the age of the claimant.

Sd/-
P. UBAID, JUDGE

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// True Copy // P.A. to Judge