

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

MONDAY, THE 5TH DAY OF OCTOBER 2015/13TH ASWINA, 1937

Crl.Rev.Pet.No. 2207 of 2014

AGAINST THE JUDGMENT IN CRL.A NO. 173/2014 OF THE VTH
ADDITIONAL SESSIONS JUDGE, (IDAMALAYAR), ERNAKULAM

REVISION PETITIONER/RESPONDENT/COMPLAINANT:

NADINE VINCENT,
CROWN 12-B, TRINITY 4C FLATS,
EDAPPALLY NORTH, COCHIN-24

BY ADVS.SRI.K.LAKSHMINARAYANAN
SMT.SATHYA SHREEPRIYA

RESPONDENTS/APELLANT/ RESPONDENT:

1. THE STATE OF KERALA, (FORMAL PARTY)
REPRESENTED THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM
2. THOMAS P.O,
PATHIPARAMBAN HOUSE, KORATTY, MURINGOOR P.O,
CHALAKKUDY

R2 BY ADV. SMT.GISA SUSAN THOMAS
R2 BY ADV. SMT.K.S.SHALEEJA
R1 BY PUBLIC PROSECUTOR SMT.M.T SHEEBA

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY
HEARD ON 05-10-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

APPENDIX

PETITIONER'S ANNEXURES:

ANNEXURE A: COPY OF THE PETITION C.M.P NO.998/2014 IN M.C NO.1/2012.

ANNEXURE B: COPY OF THE ORDER DATED 26.2.2014 IN C.M.P NO.998/2014 ON THE FILE OF THE CHIEF JUDICIAL MAGISTRATE COURT, ERNAKULAM

ANNEXURE C: COPY OF THE REPORT OF THE COUNSELOR OF BHOO MIKA COUNSELLING CENTRE FILED IN M.C. NO.1/2012 ON THE FILE OF THE C.J.M COURT, ERNAKULAM

ANNEXURE D: COPY OF THE POLICE COMPLAINT DATED 18.1.2012 SUBMITTED BY THE PETITIONER.

ANNEXURE E: COPY OF THE RECEIPT DATED 22.10.2012 RECEIVED BY THE PETITIONER FROM THE S.I OF POLICE.

ANNEXURE F: COPY OF THE POLICE COMPLAINT DATED 2.9.2013 SUBMITTED BY THE PETITIONER.

ANNEXURE G: COPY OF THE JUDGMENT IN C.M.P NO.4447/2013 DATED 12.9.2013 IN M.C NO.1/2012 ON THE FILE OF THE C.J.M COURT, ERNAKULAM.

ANNEXURE H: COPY OF THE JUDGMENT IN C.M.P NO.3886/2014 DATED 29.8.2014 IN M.C NO.1/2012 ON THE FILE OF THE C.J.M COURT, ERNAKULAM.

ANNEXURE I: COPY OF THE REPORT OF THE ADVOCATE COMMISSIONER DATED 16.9.2014 IN M.C NO.1/2012 ON THE FILE OF THE C.J.M COURT, ERNAKULAM.

RESPONDENT'S ANNEXURES:

NIL

//TRUE COPY//

P.A TO JUDGE

ab

P.UBAID, J.

Crl.R.P No.2207 of 2014

Dated this the 5th day of October, 2015

O R D E R

The petitioner herein is the petitioner in M.C No.1/2012 of the Chief Judicial Magistrate Court, Ernakulam, which is a proceeding brought under Section 12 of the Protection of Women from Domestic Violence Act (the DV Act). On 26.2.2014 the learned Magistrate passed an interim order of protection under Section 18 of the DV Act, and the respondent was restrained from entering the shared household. Against the said interim order, the respondent brought appeal before the Court of Session, Ernakulam, as Crl.A No.173/2014. Finding that the impugned interim order was passed without hearing both sides, the learned Vth Additional Sessions Judge, set aside the impugned interim order and directed the court below to dispose of C.M.P No.998/2014 on merits within 45 days from 17.12.2014. The said appellate order dated 9.12.2014 in Crl.A No.173/2014 is under challenge in this revision.

2. On hearing both sides, and on a perusal of the

impugned orders, I find no reason for interference in the order passed by the appellate court. The appeal was brought only against the interim order passed under the D.V Act. The main proceeding is still pending, and final orders are yet to be passed by the trial court. If possible, the main case itself can be tried and disposed of within a reasonable time, or else, if such a course is not practically possible, the trial court will comply the direction of the appellate court and take a decision on merits on the application for interim relief under Section 23 of the DV Act. In view of the order of protection granted by the trial court, the petitioner can very well continue in the shared household. Let appropriate decision as regards the second part of the order be taken by the trial court. The first part of the order, granting protection and permitting the petitioner to continue in the shared household, will continue till decision afresh is taken by the trial court on the application for interim relief. The learned appellate judge thought of a remand for the reason that the application for interim relief was not considered on merits. In such a situation, it is appropriate that the dispute be heard in detail by the trial court. Let appropriate decision be taken on merits. I find no reason for interference in the orders passed by

the trial court.

In the result, this Crl.R.P is disposed of as follows:

a) The trial court will dispose of C.M.P No.998/2014 on merits, after hearing both sides, as directed by the appellate court, within one month from the date of receipt of this order.

b) If it is possible, the trial court will try and dispose of the main case itself within the period of one month, or else, C.M.P No.998/2014 shall be disposed of as directed.

c) Till decision afresh is taken by the trial court, the first part of the order granting protection to the petitioner will continue in force.

d) The second part of the impugned order passed by the trial court will remain suspended, subject to decision afresh taken by the court, either in the interim proceeding, or in the main proceeding.

e) If any act of domestic violence is committed by the second respondent against the revision petitioner at the shared household or any

where else, she can approach the learned Magistrate, who will promptly, and seriously look into the matter and pass appropriate orders.

The parties will appear before the trial court on 19.10.2015.

Registry will immediately communicate a copy of this order to the trial court along with the case records.

**Sd/-
P.UBAID
JUDGE**

In view of the order in O.P(Crl) No.317/2015 dated 30.9.2015, the period of one month in clause (b) of the order in Crl.R.P No.2207/2014 is corrected as three months. So also the case number shown in O.P(Crl) No.317/2015 is corrected as M.C No.1/2012, vide order dated 21.10.2015 in Crl.M.A No.5843/2015 in Crl.R.P No.2207/2014.

**Sd/-
Registrar (Judicial)**

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