

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

WEDNESDAY, THE 27TH DAY OF MAY 2015/6TH JYAISHTA, 1937

OP(C).No. 243 of 2015 (O)

IN OS 823/2012 of II ADDL.SUB COURT,ERNAKULAM

PETITIONER(S) :

1. AGNAS ANTONY,
AGED 54 YEARS, WIFE OF C.C.ANTONY,
RESIDING AT CHERIYATHARA HOUSE VADUTHALA DESOM,
CHERANELLORE VILLAGE, KANAYANNUR TALUK,
ERNAKULAM DISTRICT.
2. BABY SONY TOM GEORGE,
AGED 44 YEARS, SON OF CHITTEZHATHU GEORGE,
RESIDING AT CHERIYATHARA HOUSE VADUTHALA DESOM
CHERANELLORE VILLAGE, KANAYANNUR TALUK.
ERNAKULAM DISTRICT.

BY ADVS.SRI.A.BALAGOPALAN
SRI.A.RAJAGOPALAN
SRI.M.N.MANMADAN
SRI.M.S.IMTHIYAZ AHAMMED
SMT.A.P.BEELAMMA.

RESPONDENT(S) :

1. MARIA STELLA ALIAS STELLA JOSEPH,
AGED 63 YEARS, WIFE OF LATE JOSEPH,
RESIDING AT C.C.36/2642 VALIYAPARAMBIL HOUSE,
KALOOR DESOM, ELAMKULAM VILLAGE, KANAYANNUR TALUK,
ERNAKULAM DISTRICT - 682 017.
2. ANTONY SEBASTIAN @ SUNIL,
AGED 35 YEARS, SON OF LATE JOSEPH,
RESIDING AT C.C.36/2642 VALIYAPARAMBIL HOUSE,
KALOOR DESOM, ELAMKULAM VILLAGE, KANAYANNUR TALUK,
ERNAKULAM DISTRICT - 682 017.

BY ADV. SRI.BIJU ABRAHAM.

THIS OP (CIVIL) HAVING BEEN FINALLY HEARD ON 27-05-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXT.P1 - TRUE COPY OF THE PLAINT FILED BY THE PETITIONERS IN O.S.823/2012 ON THE FILE OF THE 2ND ADDITIONAL SUB COURT, ERNAKULAM.
- EXT.P2 - TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE RESPONDENTS IN O.S.823/2012 ON THE FILE OF THE 2ND ADDITIONAL SUB COURT, ERNAKULAM.
- EXT.P3 - TRUE COPY OF I.A.5441/2014 FILED BY THE RESPONDENTS IN O.S.823/2012 ON THE FILE OF THE 2ND ADDITIONAL SUB COURT, ERNAKULAM.
- EXT.P4 - TRUE COPY OF I.A.5442/2014 FILED BY THE RESPONDENTS IN O.S.823/2012 ON THE FILE OF THE 2ND ADDITIONAL SUB COURT, ERNAKULAM.
- EXT.P5 - TRUE COPY OF THE OBJECTION FILED BY THE PETITIONERS IN IA.5441/2014 IN O.S.823/2012 ON THE FILE OF THE 2ND ADDITIONAL SUB COURT, ERNAKULAM.
- EXT.P6 - TRUE COPY OF THE OBJECTION FILED BY THE PETITIONERS IN IA.5442/2014 IN O.S.823/2012 ON THE FILE OF THE 2ND ADDITIONAL SUB COURT, ERNAKULAM.
- EXT.P7 - CARBON COPY OF THE COMMON ORDER PASSED BY THE HONOURABLE 2ND ADDITIONAL SUB COURT, ERNAKULAM IN EXHIBIT P3 AND P4 PETITIONS ON 6-1-2015.

RESPONDENT(S) ' EXHIBITS :

- EXT.R1 - TRUE COPY OF THE FIR IN CRIME NO.1006/2012 DATED 04/06/2012 OF THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE COURT (E.O), ERNAKULAM BY THE STATION HOUSE OFFICER, NORTH POLICE STATION AT THE INSTANCE OF PETITIONERS.
- EXT.R2 - TRUE COPY OF THE CMP NO.807/2012 FILED BY THE PETITIONERS BEFORE THE ADDITIONAL CHIEF JUDICIAL MAGISTRATE COURT(E.O), ERNAKULAM DATED 28/05/2012.
- EXT.R3 - TRUE COPY OF THE WRITTEN VERSION OF THE CONVERSATION BETWEEN ME AND PW1 & PW2 DATED 30/10/2011.
- EXT.R4 - TRUE COPY OF THE IA NO.237/2015 IN OS 823/2012 ON THE FILES OF SUB COURT, ERNAKULAM.

/TRUE COPY/

P.A.TO JUDGE

RVS.

B.KEMAL PASHA, J.

.....
O.P.(C) No.243 of 2015
.....

Dated this the 27th day of May, 2015

J U D G M E N T

The attempt of the respondents is to press into service some electronic evidence in the matter by way of Ext.B12 memory card and Ext.B13 CD containing the alleged conversation between the 2nd defendant and PWs.1 and 2. On production of the said documents, I.A.No.5441/2014 was filed for getting PWs.1 and 2 recalled for further examination, along with I.A.No.5442/2014 seeking permission to play and demonstrate such recorded conversation before the court below. It seems that the court below has allowed the said I.As. through Ext.P7 order.

2. Heard the learned counsel for the petitioners and

the learned counsel for the respondents. At present this Court does not find any irregularity, illegality or jurisdictional error committed by the court below in passing Ext.P7 order. The veracity of such evidence depends on further evidence in the matter. Presently, Ext.P7 order does not call for any interference at all.

In the result, this Original Petition is dismissed.

Sd/- B.KEMAL PASHA, JUDGE

ul/-

[True copy]

P.S. to Judge