

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 20TH DAY OF FEBRUARY 2015/1ST PHALGUNA, 1936

OP(Crl.).No. 45 of 2015 (Q)

PETITIONER(S)/PETITIONER:

**SUJITH NAIR, AGED 43 YEARS
S/O.LATE N.RAMAKRISHNAN NAIR, SREENILAYAM
CHANDRATHIL ROAD, EDAPPALLY.P.O, KOCHI-24.**

**BY ADVS.SRI.JOHNSON ABRAHAM
SRI.S.GOPINATHAN
SRI.NELSON ABRAHAM**

RESPONDENT(S)/RESPONDENTS:

**1. DEVIKA S.NAIR,, AGED 10 YEARS
MINOR, REPRESENTED BY HER MOTHER, MALATHI.S
PRESENTLY RESIDING AT 48/1706(1)
NEAR BHAVANS SCHOOL, ELAMAKKARA, KOCHI-682026.**

**2. STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA**

**R1 BY ADV. SRI.M.R.HARIRAJ
R1 BY ADV. SMT.VINEETHA B.
R2 BY GOVERNMENT PLEADER SMT. P. MAYA**

**THIS OP (CRIMINAL) HAVING BEEN FINALLY HEARD ON 20-02-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

OP(Crl.).No. 45 of 2015 (Q)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1 (TRUE COPY OF THE M.C.282/2013 FILED BEFORE THE FAMILY COURT,ERNAKULAM BY RESPONDENT)

EXT.P2 (TRUE COPY OF THE INTERIM PETITION M.P.587/2015 FILED BEFORE THE FAMILY COURT,ERNAKULAM)

EXT.P3 (TRUE COPY OF OBJECTION FILED BY THE PETITIONER BEFORE THE FAMILY COURT,ERNAKULAM)

EXT.P4 (TRUE COPY OF ORDER IN M.P.587/2013 IN M.C.282/2013 OF FAMILY COURT,ERNAKULAM).

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

PA TO JUDGE

sab

P.UBAID, J.

O.P (Crl.)No.45 of 2015

Dated this the 20th day of February, 2015.

J U D G M E N T

An order of interim maintenance under Section 125 Cr.P.C in favour of the respondent herein from the Family Court, Ernakulam in M.P No. 587 of 2013 in M.C No.282 of 2013 is under challenge in this petition brought under Article 227 of the Constitution of India. Of course, revision is not possible against such an order. That is why, probably, the petitioner has come under Article 227 of the Constitution of India. I heard both sides and I also saw the child produced in open court. I find that she has some problems physically, and that she requires a huge amount every month for her educational expenses, and also physiotherapy treatment. What is granted by the court is ₹ 15,000/- per month. On hearing both sides and on a perusal of the materials I find that the petitioner has sufficient income, and it is true that the mother is also employed. That also can be considered in this proceeding for interim maintenance, though it will not have much force when it comes to the final decision. Anyway on hearing both sides I find that there is no much scope for

interference. However in the interest of justice, on a consideration of the representations made from both sides, I find that the impugned order can be slightly modified subject to final decision in the main proceeding. In the present circumstances, I find that ₹ 12,000/- will reasonably meet the expenses of the child. Anyway, let final decision be taken by the family Court in the main proceeding.

In the result, this petition is allowed in part. Accordingly, the impugned order passed by the Family Court, Ernakulam will stand modified to the effect that the amount payable by the petitioner herein to the child as interim maintenance shall be ₹ 12,000/- per month from the date of claim, of course subject to final decision by the trial court in the main proceeding.

P.UBAID,
JUDGE