

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 27TH DAY OF FEBRUARY 2015/8TH PHALGUNA, 1936

OP(CrI.).No. 46 of 2015 (Q)

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(IN C.M.P NO.178/2014 IN M.C NO.53/2014 BEFORE THE FAMILY COURT,  
CHAVARA)

PETITIONER:

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ANIYAN.R, AGED 41 YEARS,  
S/O. NARAYANA PILLAI,  
VELAKOMPIL VILAYIL, KALLELIBHAGOM P.O,  
KARUNAGAPPALLY, KOLLAM DISTRICT.

BY ADV. SRI.P.V.DILEEP

RESPONDENTS:

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1. RESHMI R, AGED 31 YEARS,  
D/O. RAJALEKSHMI, RANDAN PARAMPU, ALUMKADAVU P.O,  
NOW RESIDING AT SURYALAYAM, MUKUNDAPURAM P.O,  
MENAMPALLY, CHAVARA, KOLLAM DISTRICT - 690601.
2. ANANTHA NARAYANAN,  
AGED 10 YEARS, S/O. ANIYAN N.S., RANDAN PARAMPU,  
ALUMKADAVU P.O., NOW RESIDING AT SURYALAYAM  
MUKUNDAPURAM P O., MENAMPALLY, CHAVARA,  
KOLLAM DISTRICT - 690 601.  
(MINOR REPRESENTED BY HIS MOTHER/LEGAL  
GUARDIAN SMT. RESHMI.R)
3. ADITHYAN, AGED 7 YEARS,  
S/O. ANIYAN N.S, RANDAN PARAMPU, ALUMKADAVU P.O,  
NOW RESIDING AT SURYALAYAM, MUKUNDAPURAM P.O.  
MENAMPALLY, CHAVARA  
KOLLAM DISTRICT - 690 601.  
(MINOR REPRESENTED BY HIS MOTHER/LEGAL  
GUARDIAN SMT. RESHMI.R)

THIS OP (CRIMINAL) HAVING COME UP FOR ADMISSION ON  
27-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP(Cr1.).No. 46 of 2015 (Q)

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APPENDIX

PETITIONER'S EXHIBITS:

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EXHIBIT P1:- COPY OF M.C. NO. 53/2014 FILED BY THE RESPONDENTS BEFORE THE HONOURABLE FAMILY COURT CHAVARA DTD.5.3.2014

EXHIBIT P2:- COPY OF THE ORDER IN M.C. NO. 53/2014 OF THE FAMILY COURT CHAVARA DTD.31.7.2014.

EXHIBIT P3:- COPY OF THE C.M.P. NO. 178/2014 IN M.C. NO. 53/2014 OF THE FAMILY COURT, CHAVARA dtd.22.11.2014

EXHIBIT P4:- COPY OF THE DELAY CONDONATION PETITION NUMBERED AS C.M.P. NO. 618/2014 IN M.C. NO. 53/2014 BEFORE THE FAMILY COURT, CHAVARA DTD.8.12.2014.

EXHIBIT:-P5:- COPY OF THE PETITION FOR SET ASIDING THE EXPARTE DECREE NUMBERED AS C.M.P. NO. 619/2014 IN M.C. NO. 53/2014 PENDING BEFORE THE FAMILY COURT, CHAVARA DTD 8.12.2014.

EXHIBIT P6:- COPY OF THE ORDER DATED 24-01-2015 IN C.M.P. NO. 178/2014 IN M.C. NO. 53/2014 OF THE FAMILY COURT, CHAVARA

EXHIBIT P7:- COPY OF THE RECEIPTS SHOWING AN AMOUNT OF RS. 14,000/- GIVEN TO RESPONDENTS DATED 16-01-2015.

RESPONDENTS' EXHIBITS:

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NIL

//TRUE COPY//

P.A TO JUDGE

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**P.UBAID, J.**

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**O.P(Crl) No. 46 of 2015**  
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Dated this the 27<sup>th</sup> day of February, 2015

**J U D G M E N T**

The petitioner herein is the respondent in M.C No.53/2014 of the Family Court, Chavara. In the said petition brought by his wife and his minor children for maintenance under Section 125 of the Code of Criminal Procedure, the court below passed ex-parte order directing the petitioner to pay maintenance to the wife at the rate of ₹4,000/- per month, and to the two minor children at the rate of ₹3,000/- each per month. The said order was passed on 31.7.2014. An application filed by the petitioner to set aside the ex-parte order is now pending before the court below as C.M.P No.619/2014. He has also filed C.M.P No.618/2014 to condone the delay in filing the application to set aside the ex-parte order. The petitioner seeks early decision and disposal of those two petitions in view of the coercive steps pending against him in execution of the maintenance order. There is a report by the learned trial judge that the two applications filed by the petitioner stand posted for hearing on 23.2.2015. Now it is submitted that the matter

stands posted to 4.4.2015. The total amount payable by the petitioner is ₹10,000/- per month. It is submitted that a decision on merits is required in the present circumstances, and that the petitioner is ready to make payment reasonably. If so, his grievance requires to be considered by the learned trial judge. Though a direction for time bound disposal is inappropriate, the court below is directed to expedite consideration of these two applications and take a decision without any delay. Coercive steps are now pending against the petitioner in the court below. If he wants stay of those proceedings, or to re-call the warrant, he can very well approach the trial court with necessary application. If he is ready to make deposit of some reasonable amount towards the maintenance, the learned trial judge can think of suspending the execution proceedings on such conditions till decision is taken on the application to set aside the ex-parte order. This Original Petition is accordingly disposed of.

**P.UBAID  
JUDGE**

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