

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY, THE 24TH DAY OF MARCH 2015/3RD CHAITHRA, 1937

OP(Cr1.).No. 54 of 2015 (Q)

PETITIONER:

SHAHUL HAMEED,
S/O. MEERA SAHIB, SALAM COTTAGE, KANNAMCODE
VENJARAMOODU, NELLANADU, NEDUMANGADU

BY ADVS.SMT.M.A.ZOHRA
SRI.B.SATHIQ

RESPONDENT:

JASSY
SIMI MAHAL, SIMI MAHAL, KUTHIRAKULAM VEMBAYAM
MAICKAL VILLAGE, NEDUMANGADU-695 608

GOVERNMENT PLEADER SMT. S. HYMA

THIS OP (CRIMINAL) HAVING COME UP FOR ADMISSION ON
24-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP(Crl.).No. 54 of 2015 (Q)

APPENDIX

PETITIONER'S EXHIBITS

EXHIBIT P1: TRUE COPY OF THE M.C. NO.357/2014 BEFORE THE FAMILY COURT, NEDUMANGAD DATED 8/10/2014

EXHIBIT P2: TRUE COPY OF THE CMP NO.398/2014 DATED 8/10/2014

EXHIBIT P3: TRUE COPY OF THE OBJECTION IN CMP NO 398/2014 DATED 13.10.2014

EXHIBIT P4: TRUE COPY OF THE ORDER IN CMP NO.398/2014 IN M.C. NO. 357 OF 2014 BEFORE THE FAMILY COURT, NEDUMANGAD DATED 7/11/2014

RESPONDENT(S)' EXHIBITS: NIL

//TRUE COPY//

P.A. TO JUDGE

smv

P. UBAID. J.

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O.P.(Crl) No.54 of 2015

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Dated this the 24th day of March, 2015

JUDGMENT

The petitioner herein is the respondent in M.C. No.357 of 2014 of the Family Court, Nedumangad. It is a claim brought by his wife under Section 125 of the Cr.P.C. Pending the proceeding she filed CMP No. 394 of 2014 for interim maintenance. The learned trial judge allowed the said application on 7.11.2014 and directed the petitioner herein to pay interim maintenance at the rate of Rs.3,000/- per month. The said order is under challenge under Article 227 of the Constitution of India. The respondent remained absent in spite of notice. On hearing the learned counsel and on a perusal of the impugned order I find that a direction to the court below to dispose of the main claim itself within six months will do justice. In the main proceeding, the petitioner herein will have to be heard effectively, and all his grievances and defences including the defence that he has already divorced his wife on 19.9.2014 will have to be considered by the learned trial judge. Even if there is divorce as pleaded by him, he will be liable till the reliefs is under the Muslim Women (Protection of Rights on Divorce) Act, 1986, are provided by him. Anyway on a consideration of all the aspects including the alleged divorce and also the circumstances in which the petitioner happened to be

driven out from the matrimonial home, the learned trial judge will decide the quantum of maintenance finally in the main proceeding. Presently I do not find any reason to interfere in the order passed by the court below. If it is ultimately found that she is not entitled to get Rs.3,000/- per month, whatever amount paid by him under the impugned order can be adjusted towards the amount due under the final order.

In the result, this O.P. is closed, with a direction to the court below that trial proceedings in M.C.No. 357 of 2014 shall be expedited and final decision shall be taken within six months, if possible.

Sd/-
P. UBAID, JUDGE

//true copy//

P.A. To Judge

Smv