

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

MONDAY, THE 8TH DAY OF JUNE 2015/18TH JYAISHTA, 1937

OP(Crl.).No. 113 of 2015 (Q)

**C.M.P.NO.694/2013 IN M.C.NO.20/2013 OF JUDICIAL FIRST CLASS MAGISTRATE
COURT-IV, THIRUVANANTHAPURAM.**
.....

PETITIONERS/APPELLANTS/RESPONDENTS:

- 1. K.SUDHEER, AGED 43 YEARS,
S/O LATE K.K.KRISHNAN NAIR,
RESIDING AT KARAKKATTU VEEDU, ERIKKAVU,
KARTHIKAPALLY P.O., ALAPPUZHA DISTRICT.**
- 2. K.P.SUMANGALAMMA, AGED 60 YEARS,
W/O K.K.KRISHNAN NAIR,
RESIDING AT KARAKKATTU VEEDU,
ERIKKAVU, KARTHIKAPALLY P.O.,
ALAPPUZHA DISTRICT.**

BY ADV. SRI.AYYAPPAN SANKAR

RESPONDENT/RESPONDENT/PETITIONER:

- 1. AMRITHA.N.V, D/O K.DEVAKIAMMA,
'AMBALAPPATTU', PATTOM,
THIRUVANANTHAPURAM-695003.**
- 2. THE STATE OF KERALA,
REP. BY PUBLIC PROSEUTOR,
HIGH COURT OF KERALA, AT ERNAKULAM.**

**R1 BY ADVS. SRI.PHILIP J.VETTICKATTU
SRI.B.PREMNATH (E)
R2 BY PUBLIC PROSEUTOR SMT.SAREENA GEORGE**

**THIS OP (CRIMINAL) HAVING COME UP FOR ADMISSION
ON 08-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT P1: TRUE PHOTOCOPY OF THE PETITION FOR INTERIM ORDER UNDER SECTION 23 OF D.V. ACT DATED 12.2.2013 ON THE FILE OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-IV THIRUVANANTHAPURAM.
- EXHIBIT P2: TRUE PHOTOCOPY OF THE EXPARTE AD-INTERIM ORDER DATED 13.2.2013 IN CMP 754/2013 IN M.C.121/2013 OF THE CHIEF JUDICIAL MAGISTRATE COURT, THIRUVANANTH.
- EXHIBIT P3: TRUE PHOTOCOPY OF THE OBJECTION DATED 16.6.2014 IN M.C.NO.20/2013 ON THE FILE OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-IV, THIRUVANANTHAPURAM.
- EXHIBIT P4: TRUE PHOTOCOPY OF THE PETITION FOR MODIFICATION FILED ON 23.10.2013 ON THE FILE OF JUDICIAL FIRST CLASS MAGISTRATE COURT-IV, THIRUVANANTHAPURAM.
- EXHIBIT P5: TRUE PHOTOCOPY OF THE ORDER DATED 26.6.2014 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-IV, THIRUVANANTHAPURAM.
- EXHIBIT P6: TRUE PHOTOCOPY OF THE MEMORANDUM OF APPEAL IN CRL.APPEAL NO.256/2014 ON THE FILES OF SESSIONS COURT, THIRUVANANTHAPURAM.
- EXHIBIT P7: TRUE PHOTOCOPY OF THE CRL.M.P.NO.1935/2014 IN CRL.APPEAL NO.256/2014.
- EXHIBIT P8: TRUE PHOTOCOPY OF THE ORIGINAL PETITION FILED BY IST PETITIONER AS OLP.(HMA)NO.1423/2012 BEFORE THE FAMILY COURT, ALAPPUZHA.
- EXHIBIT P9: TRUE PHOTOCOPY OF THE RECEIPT SIGNED BY RESPONDENT AND HER BROTHER ACKNOWLEDGING RECEIPT OF ALL ORNAMENTS ON 12.5.2012.
- EXHIBIT P10: CERTIFIED TRUE COPY OF THE ORDER DATED 30.7.2014 OF SESSIONS COURT, THIRUVANANTHAPURAM IN CRL.M.P.NO.1935/2014 IN CRL. APPEAL NO.256/2014.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

ALEXANDER THOMAS, J.

O.P (Crl.) No.113 of 2015

Dated this the 8th day of June, 2015

JUDGMENT

The order impugned in this case is Ext.P10 order rendered on 30/07/2014 on Criminal M.P.No.1935/2014 in Criminal Appeal No.256/2014 on the file of the Sessions Court, Thiruvananthapuram. The said order was passed on a stay application moved in Crl.Appeal No.256/2014. The impugned order reads as follows:

“ Heard. Issue notice. Pending appeal, the petitioner shall pay and continue to pay at the rate of Rs.3000/- (Rupees three thousand only) per month.”

2. As directed by this Court, the Registry had called for a report from Sessions Court, Thiruvananthapuram and in pursuance thereof the said court has forwarded letter dated 12/5/2015 wherein it is stated that “on perusing the order there is nothing to suggest in the order that there is stay of the order” etc.

3. The application considered by the court below was one pertaining to stay. Since the order does not explicitly

state as to whether or not stay has been granted or not, it is ordered in the interest of justice, without going into the merits of the case, that the impugned Ext.P10 order will stand set aside. The Criminal M.P.No.1935/2014 in Criminal Appeal No.256/2014 is remitted back to the Sessions Court, Thiruvananthapuram for consideration afresh and to pass orders thereon after hearing both sides within a period of two weeks from the date of production of certified copy of this judgment by any of the parties.

The O.P.(Crl.) stands finally disposed of.

Sd/-ALEXANDER THOMAS
JUDGE

MJL