

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

OP(Crl.).No. 118 of 2015 (Q)

PETITIONER/RESPONDENT:

**VIJAYAN, AGED 46 YEARS
S/O. NARAYANAN, PANATTIL
HOUSE, KALLUR VILLAGE
MUKUNDAPURAM TALUK**

BY ADV. SRI.P.K.SAJEEV

RESPONDENT/PETITIONER:

- 1. BEENA, D/O. GOPALAN, VADAKKEPARAMBIL
HOUSE, ANCHUMANA DESOM, EDAPPILLY
VILLAGE, ERNAKULAM TALUK**
- 2. STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF
KERALA - 682031**

R2 BY Sr. GOVERNMENT PLEADER SMT. SAREENA GEORGE P.

**THIS OP (CRIMINAL) HAVING COME UP FOR ADMISSION ON 10-04-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

**ANNEXURE-A1: COPY OF THE PETITIONS IN M.P.NO.171/2014 IN M.C.NO.285/2006 ON
THE FILES OF FAMILY COURT, IRINJALAKUDA**

**ANNEXURE-A2: COPY OF THE PETITIONS IN E.P.NO.14/2013 IN O.P.NO.1317/2006 ON
THE FILES OF FAMILY COURT, IRINJALAKUDA**

**ANNEXURE-A3: TRUE COPY OF OBJECTIONS IN E.P.NO.14/2013 IN O.P.NO.1317/2006
ON THE FILES OF FAMILY COURT, IRINJALAKUDA**

ANNEXURE-A4: TRUE COPY OF THE MEDIATION AGREEMENT DATED 06.08.2014

**ANNEXURE-A5: TRUE COPY OF PROCEEDINGS IN M.P.NO.171/2014 IN
M.C.NO.285/2006 ON THE FILES OF FAMILY COURT, IRINJALAKUDA**

RESPONDENTS' EXHIBITS

NIL

// TRUE COPY // P.A. TO JUDGE

SD

P. UBAID, J.

O.P.(CrI)No.118 of 2015

Dated this the 10th day of April, 2015

JUDGMENT

The petitioner herein is the respondent in M.C.No.285/2006 of the Family Court, Irinjalakuda. Pending the proceeding, the parties came to settlement, and as part of settlement the petitioner herein agreed to pay maintenance to his wife. When he failed to make payment, the wife brought execution proceedings as M.P.No.171/2014. Now, there is warrant of arrest against him in execution. He seeks orders from this Court under Article 227 of the Constitution of India staying the execution proceedings, pending decision in the original petition brought by the wife for recovery of ornaments.

2. On hearing the learned counsel, and on a perusal of the proceedings, I find that the petitioner's right remedy lies in the trial court itself. In the present circumstances, where there is a warrant issued against him rightly on complaint of failure to pay maintenance promptly, this Court cannot exercise supervisory jurisdiction under Article 227 of the Constitution of India. The petitioner can very well approach the trial court, make substantial payment towards the maintenance due from him, and have the

warrant recalled by the trial court itself.

With these observations, this original petition is closed.

Sd/-

P. UBAID, JUDGE

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