

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.ABRAHAM MATHEW

FRIDAY, THE 26TH DAY OF JUNE 2015/5TH ASHADHA, 1937

OP(Crl.).No.147 of 2015 (Q)

**CMP NO.598/2015 IN M.C NO.139/2012 OF THE JUDICIAL FIRST CLASS
MAGISTRATE COURT-I,HARIPAD.**

PETITIONER/APPLICANT/COUNTER PETITIONER NO:2:

**DWARAISWAMI,AGED 71 YEARS,
S/O.PADMANABHAN ACHARI,PRADEEP BHAVANAM,
THIRUVAMBADI.P.O,ALAPPUZHA DISTRICT.**

BY ADV.SMT.S.L.SYLAJA

RESPONDENT/RESPONDENT/ORIGINAL PETITIONER:

**RAJI,AGED 26 YEARS,D/O.RAJAN ACHARI,
KADAMBILTHARAYIL VEEDU,
CHERUTHANA SOUTH MURI,
CHERUTHANA VILLAGE,
ALAPPUZHA DISTRICT,PIN-688007.**

**R1 BY ADVS.SRI.S.SANAL KUMAR
SRI.M.T.SURESHKUMAR
SMT.TJ.SEEMA
SMT.BHAVANA VELAYUDHAN
SMT.SMITHA PHILIPOSE**

**THIS OP (CRIMINAL) HAVING COME UP FOR ADMISSION ON 26-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

pk

OP(Crl.).No.147 of 2015 (Q)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1:TRUE COPY OF THE PETITION FILED BY THE RESPONDENT HEREIN AS
M.C.139/2012 BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE
COURT-I,HARIPAD UNDER SECTION 12 OF THE PROTECTION OF WOMEN
FROM DOMESTIC VIOLENCE ACT-2005.

EXT.P2:TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER HEREIN THE
M.C.139/2012.

EXT.P3:TRUE COPY OF THE JUDGMENT DATED 7/8/2014 OF THE FAMILY
COURT,ALAPPUZHA IN O.P.(HMA)1027/2013.

EXT.P4:TRUE COPY OF THE COMMISSION APPLICATION FILED BY THE
PETITIONER HEREIN AS C.M.P.598/2015 DATED 17/01/2015 FILED BEFORE
THE JUDICIAL FIRST CLASS MAGISTRATE COURT-I,HARIPAD.

EXT.P5:TRUE COPY OF THE OBJECTION TO THE COMMISSION APPLICATION
DATED 31/1/2015 FILED BY THE RESPONDENT.

EXT.P6:THE CERTIFIED COPY OF THE ORDER IN C.M.P.598/2015
DATED 28/03/2015 FILED BEFORE THE JUDICIAL FIRST CLASS
MAGISTRATE COURT-1,HARIPAD.

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

K. ABRAHAM MATHEW, J.

O.P.(Crl) No.147 of 2015

Dated this the 26th day of June 2015

J U D G M E N T

Petitioner is the father-in-law of the respondent.

The respondent has filed an application under Sec.12 of the Protection of Women from Domestic Violence Act. Her husband and mother-in-law also are respondents in the application filed in the lower court. There is an allegation that the petitioners and others have misappropriated the gold ornaments of the respondent. The petitioner filed an application to appoint a Commissioner to break open the almirah in his house so that the gold ornaments which are allegedly kept in the safe of the almirah may be handed over to the respondent. Learned Magistrate dismissed it. The order is challenged in this petition.

2. Heard.

3. Under Sec.28(2) of the Protection of Women from Domestic Violence Act, the court is empowered to lay down its own procedure for disposal of an application filed under the Act. The learned Magistrate had the

authority to appoint a Commissioner. The respondent only stands to benefit by appointment of a Commissioner. So I am inclined to set aside the order of the learned Magistrate.

In the result, this O.P.(Criminal) is allowed. The learned Magistrate is directed to appoint a Commissioner to break open the safe in the almirah kept in the house of the petitioner and to produce the gold ornaments if any in it before the Court, which shall pass appropriate orders in respect of them. All the expenses shall be met by the petitioner. The proceedings in the commission application will not be treated as evidence in any case.

Sd/-
K. ABRAHAM MATHEW
JUDGE

/ True Copy /

NS

P.A. To Judge