

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

TUESDAY, THE 24TH DAY OF NOVEMBER 2015/3RD AGRAHAYANA, 1937

OP(Crl.).No. 248 of 2015 (Q)

(CRL.A.NO. 372/2014 OF SESSIONS COURT, MANJERI)

PETITIONER:

**ASSIANAR, AGED 65 YEARS,
S/O.KARATHAYAMMU, THEKKEPURATHU HOUSE,
AYIROOR AMSOM, PALAPPETTY, PIN-679 580.**

BY ADV. SRI.C.S.RAMANATHAN

RESPONDENTS:

- 1. AYISHAKUTTY, AGED 58 YEARS, D/O.MOHAMMED,
THEKKEPURATH HOUSE, AYIROOR AMSOM,
PALAPPETTY, PIN-679 580.**
- 2. STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

R2 BY PUBLIC PROSECUTOR SMT. SEENA RAMAKRISHNAN

**THIS OP (CRIMINAL) HAVING BEEN FINALLY HEARD
ON 24-11-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

sts

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APPENDIX

PETITIONER(S)' EXHIBITS

- P1 COPY OF THE MC (DV) 293/2014 FILED BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT, PONNANI, BY THE FIRST RESPONDENT
- P2 COPY OF THE ORDER DATED 9/10/2014 ISSUED BY THE JUDICIAL FIRST CLASS MAGISTRATE COURT, PONNANI
- P3 COPY OF THE MC 530/2014 FILED BY THE PETITIONER BEFORE THE HONOURABLE FAMILY COURT, TIRUR
- P4 STATEMENT FILED BY THE PETITIONER BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT, PONNANI, IN MC 293/2014
- P5 THE COPY OF THE CRIMINAL APPEAL 372/2014
- P6 THE COPY OF THE PETITION FOR STAY FILED ALONG WITH THE CRL.APPEAL NO. 372/2014.

RESPONDENT(S)' EXHIBITS:

NIL

/TRUE COPY/

P.A.TO JUDGE

sts

K.RAMAKRISHNAN, J.

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OP(Crl.) No.248 OF 2015

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Dated this the 24th day of November, 2015

JUDGMENT

This is an application filed by the petitioner issuing direction to the Additional Sessions Courts, Manjeri to expedite the petition pending before that court under Article 227 of the Constitution of India.

2. It is alleged in the petition that the 1st respondent is the wife of the petitioner and there was some dispute between them in respect of the property in which they are now staying. 1st respondent filed a complaint under Protection of Women from Domestic Violence Act, 2005 before the Judicial First Class Magistrate's Court, Ponnani and obtained an order restraining from doing anything in the land and the building and further directing the petitioner to pay Rs.5,000/- as maintenance. The petitioner

filed MC No.530/2014 before the Family Court claiming maintenance against his son and that is pending. The petitioner filed Crl.Appeal No.372/2014 against the order of the Magistrate passed under the provisions of the Protection of Women from Domestic Violence Act and also filed an application for stay of vacating interim order passed. But court below has not passed any order. So the petitioner has no other remedy except to approach this court seeking the following relief:-

- i) To issue an order or direction directing the learned Sessions Court, Manjeri to dispose off the appeal No.372/2014 pending before the sessions court, Manjeri.
- ii) To direct the sessions magistrate court, Manjeri to dispose off the petition for stay pending before the Sessions Court, Manjeri.
- iii) To direct the first class magistrate court, Ponani not to proceed with the 293/2014 till the disposal of the appeal No.372/2014 pending before the Sessions Court, Manjeri.
- iv) Any other prayer this honourable court may order as and when found necessary".

3. The notice sent to 1st respondent was not returned. However, this court has called for a report from

the Sessions Court regarding the matter and earlier by report dated 31.8.2015 the Additional Sessions Judge No.III, Manjeri sent a report stating that the Additional Sessions Judge will be able to pass appropriate orders in the Crl.M.P. No.1320/2015 within two weeks and the appeal will be disposed of within two months. When the application came up for hearing on 13.11.2015, the counsel for the petitioner submitted that the appeal as well as Crl.M.P. has not been disposed of so far. So this court called for a further report from the Additional Sessions Court No.III, Manjeri and the learned Additional Sessions Judge sent a report dated 20.11.2015 stating that on 2.11.2015 when the application was posted, there was no appearance on either side. So notice has been issued to the appellant as well as his counsel and now it is posted to 26.11.2015 and reminder has been issued to lower court for making the records available. Since this court feels that the the petition can be disposed of by giving direction to the Additional Sessions Judge to dispose of the appeal even in the absence of the 1st respondent as no prejudice will be caused to her, notice to

1st respondent is dispensed with.

Heard the counsel for the petitioner and learned Public Prosecutor Smt. Seena Ramakrishnan.

The petition is disposed of as follows:–

The Additional Sessions Judge No.III, Manjeri is directed to expedite disposal of Crl.Appeal No. 372/2014 pending before that court as expeditiously as possible at any rate within two months from 26.11.2015 on which date the case is now posted, if the service on respondent is complete.

In the meantime the court below is also directed to dispose of the Crl.MP 1320/2014 within a period of three weeks from the date of receipt of this judgment.

Office is directed to communicate this order to the concerned court by FAX immediately.

Sd/–
K.RAMAKRISHNAN, JUDGE

SKV