

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

THURSDAY, THE 13TH DAY OF AUGUST 2015/22ND SRAVANA, 1937

OP(Crl.).No. 250 of 2015 (Q)

MC.255/2014 OF FAMILY COURT, PALAKKAD

PETITIONER:

**BIJU MATHEW, AGED 44 YEARS,
S/O MATHEW, NIRAPPEAL PUTHENPURAYIL HOUSE,
C/O.MOHAMMED RAFI, KILIANGAL HOUSE, KAKANAD.P.O,
ERNAKULAM.**

**BY ADVS.SRI.K.MOHANAKANNAN
SMT.A.R.PRAVITHA**

RESPONDENT:

- 1. MARGY GEORGE, AGED 37 YEARS,
D/O.GEORGE, PUTHENVEETIL HOUSE, PERUMBILLY POST,
MULANTHURUTHY, ERNAKULAM DISTRICT-682314.**
- 2. ABNAR BIJU,, AGED 9 YEARS,
D/O.BIJU, PUTHENVEETIL HOUSE, PERUMBILLY POST,
MULANTHURUTHY, ERNAKULAM DISTRICT-682314.**
- 3. ABJAIN BIJU, AGED 6 YEARS,
D/O.GEORGE, PUTHENVEETIL HOUSE, PERUMBILLY POST,
MULANTHURUTHY, ERNAKULAM DISTRICT-682314.**

**THIS OP (CRIMINAL) HAVING COME UP FOR ADMISSION ON 13-08-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 TRUE COPY OF THE MC 135/2014 ON THE FILE OF THE FAMILY COURT
 ERNAKULAM**
- P2 TRUE COPY OF THE MP 264/2015 IN MC 135/2014 DATED 24.3.2015**
- P3 TRUE COPY OF THE OBJECTION FILED BY THE RESPONDENT IN MP 264/2015
 DATED 4.6.2015**
- P4 TRUE COPY OF THE LIST OF DOCUMENT PRODUCED IN SUPPORT OF EXT.P3
 (MP264/2015 IN MC 135/2014)**
- P5 TRUE COPY OF THE LIST OF DOCUMENT PRODUCED IN SUPPORT OF
 EXT.P3 (M.R.I.SCAN REPORT OF LUMBOSACRAL SPINE)**
- P6 TRUE COPY OF THE LIST OF DOCUMENTS PRODUCED IN SUPPORT OF
 EXT.P3 (MOTOR VEHICLES DEPARTMENT KERALA REGISTRATION DETAILS)**
- P7 TRUE COPY OF THE SCAN REPORT ISSUED FROM THE GENERAL
 HOSPITAL,ERNAKULAM**
- P8 TRUE COPY OF THE ORDER IN CMP.264/15 IN MC 135/14 OF FAMILY
 COURT, ERNAKULAM DATED 9.6.2015.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

ALEXANDER THOMAS, J.

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O.P(Crl.)No. 250 of 2015

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Dated this the 13th day of August, 2015

J U D G M E N T

The order under challenge is one at Ext.P-8 dated 9.6.2015, whereby interim maintenance at the rate of Rs.2,000/- each was ordered to be given to the respondents in M.P.No.264/2015 in M.C.135/2014 on the file of the Family Court, Ernakulam. The main ground taken by Sri.K.Mohanakannan, learned counsel for the petitioner is that no prayer for interim maintenance in the main maintenance claim was made and further that 1st respondent mother is a owner and driver of “She Taxi” service and is getting sufficient income. It is also contended that the petitioner is suffering from severe disk problems and he is unable to do any job.

In view of the fact that Ext.P-8 is only a order regarding interim maintenance and as the main Maintenance Claim petition is pending before the court below, this Court is of the considered opinion that the extraordinary discretion conferred on this Court under Sec.482 of the Code of Criminal Procedure need not be

invoked in the facts of this case. It is for the petitioner to file an appropriate application for modification of impugned Ext.P-8 order before the court below stating these objections and also producing credible materials before the court below to convince the court about the correctness of such factual assertions, upon which, the court below will consider such application and pass necessary orders thereon after hearing both sides. This shall be done within a period of six weeks from the date of filing of any such application for modification of the impugned order. The petitioner shall produce a certified copy of this judgment before the court below.

With these observations and directions, this O.P(Crl.) stands finally disposed of.

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///True copy///

Sd/-
ALEXANDER THOMAS, JUDGE

P.S. to Judge