

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 31ST DAY OF AUGUST 2015/9TH BHADRA, 1937

OP(Crl.).No. 268 of 2015 (Q)

**ORDER DATED 26.6.2015 IN M.P.313/2015 IN M.C.249/2014 OF FAMILY COURT,
ERNAKULAM.**

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PETITIONER:

**DANISH MICHAEL, S/O.MICHAEL,
AGED 31 YEARS, NADUVILAPARAMBIL(H),
ELAMAKKARA.P.O., PUTHUKALAVATTOM,
ERNAKULAM - 682 025, REPRESENTED BY
FATHER AND POWER OF ATTORNEY HOLDER,
N.P.MICHAEL, AGED 56 YEARS, PETER,
NADUVILAPARAMBIL(H), ELAMAKKARA.P.O,
PUTHUKALAVATTOM, ERNAKULAM - 682 025.**

BY ADV. SMT.C.S.SHEEJA

RESPONDENT(S):

- 1. RESHMA ROY, D/O.ROY, AGED 25 YEARS,
PALLIPARAMBIL HOUSE,
CHANGAMPUZHA CROSS ROAD,
PONEKKARA - 686 024.**
- 2. HARSHAL DANISH, S/O.DANISH MICHAEL,
AGED 4 YEARS, REPRESENTED BY HIS
MOTHER AND GUARDIAN, RESHMA ROY,
PALLIPARAMBIL HOUSE,
CHANGAMPUZHA CROSS ROAD,
PONEKKARA - 686 024.**

**THIS OP (CRIMINAL) HAVING BEEN FINALLY HEARD ON 31-08-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONERS' EXHIBITS:

- EXT. P1 : TRUE COPY OF M.P.313/2015 IN M.C.249/2014 OF FAMILY COURT,
ERNAKULAM.
- EXT. P2 : TRUE COPY OF COUNTER AFFIDAVIT IN M.P.313/2015 OF FAMILY
COURT, ERNAKULAM.
- EXT. P3 : TRUE COPY OF ORDER DATED 26.6.2015 IN M.P.313/2015 OF FAMILY
COURT, ERNAKULAM.
- EXT. P4 : TRUE COPY OF SICK LEAVE CERTIFICATE ISSUED TO THE
PETITIONER.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

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B.KEMAL PASHA, J.

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O.P.(CRL) No.268 of 2015

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Dated this the 31st day of August, 2015

J U D G M E N T

The 1st respondent as complainant had approached the Family Court, Ernakulam through M.C.No.249 of 2014, seeking maintenance for her and the 2nd respondent, who is her 4 year old son from the petitioner, under Section 125 Cr.P.C. The petitioner is working abroad. The court below has ordered interim maintenance at the rate of Rs.6,000/- per month to the 1st respondent wife and at the rate of Rs.4,000/- per month to the 2nd respondent child. The same is under challenge.

2. On hearing the learned counsel for the petitioner and on considering that facts and circumstances of the case, this Court is of the view that there is absolutely nothing to interfere with Exhibit P3 interim order passed by the court below. There is no contention that the 1st respondent is not the wife of the petitioner. Further there is no contention that the 2nd respondent is not child of the petitioner. There is no case for the petitioner that presently

he is maintaining them. The only contention is that he had earlier sent money on various dates to the 1st respondent and those amounts were misused by the 1st respondent.

3. It has also been argued that the petitioner has filed an O.P. before the Family Court, Ernakulam seeking restitution of conjugal rights as against the 1st respondent. Whatever it is, it is a stark reality that presently there is nobody to maintain the respondents. The petitioner has got a case that the 1st respondent is employed as a Salesgirl in a jewellery, which is a private firm. Considering all the above, this Court is of the view that the present interim arrangement made by the Family Court, Ernakulam shall continue till the disposal of the case before the court below.

With the said observations, this Original Petition (Criminal) is dismissed.

Sd/-

**B. KEMAL PASHA
JUDGE**