

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 23RD DAY OF SEPTEMBER 2015/1ST ASWINA, 1937

OP(Cr1.)No. 284 of 2015 (Q)

IN MC 211/2014 OF THE JUDICIAL FIRST CLASS MAGISTRATE
COURT, KUTHUPARAMBA

PETITIONERS/RESPONDENTS:

1. JALAJA MANI, AGED 67 YEARS,
W/O.MANIYAN, KATTIMITTAM P.O,
VAIKKAPRAYAR, VAIKOM, KOTTAYAM DISTRICT.
2. SANTOSH.K.M, AGED 40 YEARS,
S/O.MANIYAN, WELDER, P.O.VAIKKAPRAYAR,
VAIKOM, KOTTAYAM DISTRICT.

BY ADVS.SRI.J.JULIAN XAVIER
SRI.FIROZ K.ROBIN

RESPONDENTS/PETITIONER AND STATE:

1. SREEJA M.S, AGED 35 YEARS,
D/O.SREEDHARAN, MANAKATT VELIL VEEDU,
AMBAYATHODU.P.O
PALCHURAM, PIN-670651.
2. STATE OF KERALA,
REPRESENTED BY ITS PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

R2 BY GOVERNMENT PLEADER SRI.JUSTIN JACOB

THIS OP (CRIMINAL) HAVING COME UP FOR ADMISSION ON
23-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP(Cr1.).No. 284 of 2015 (Q)

APPENDIX

PETITIONERS' EXHIBITS:

P1: COPY OF THE PETITION M.C.211/2014 BEFORE THE JUDICIAL
FIRST CLASS MAGISTRATE COURT, KUTHUPARAMBA.

P2 COPY OF THE STATEMENT DEED DATED 30.12.2009.

RESPONDENTS' EXHIBITS:

NIL

//TRUE COPY//

P.A TO JUDGE

ab

P.UBAID, J.

O.P(CrI) No.284 of 2015

Dated this the 23rd day of September, 2015

J U D G M E N T

The petitioners herein seek orders under Article 227 of the Constitution of India, quashing a proceeding brought by the respondents herein under Section 12 of the Protection of Women from Domestic Violence Act (DV Act). The petitioners have urged so many grounds in this petition. Their case is that the respondents are not entitled, under the law, to get the reliefs as sought in the proceeding. Another ground prominently urged is that the court does not have the territorial jurisdiction to adjudicate and decide the claim. The case is now pending before the Judicial First Class Magistrate Court, Kuthuparamba as M.C No.211/2014.

2. On a perusal of the materials I find that the petitioners will have to approach the learned Magistrate and agitate the contentions there. If at all the court has no territorial jurisdiction to adjudicate the claim, the proper course is not to quash the proceeding as such. If the claimants have a case to

proceed, the right course in such a situation is to transfer the case to the appropriate court. As regards the other grounds also the petitioners can approach the learned Magistrate and agitate their contentions there. Whether the respondents herein are entitled to get relief under the law, will be looked into and decided by the learned Magistrate. If the petitioners have any objection regarding jurisdiction or otherwise, those things will have to be looked into and considered by the learned Magistrate.

2. The learned counsel makes a request to direct the learned Magistrate to exempt the petitioners from personal appearance. I do not think that the learned Magistrate will insist on personal appearance in a proceeding brought under the DV Act.

With the above observations this Original Petition is disposed of.

**P.UBAID
JUDGE**

ab