

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.KEMAL PASHA

MONDAY, THE 30TH DAY OF NOVEMBER 2015/9TH AGRAHAYANA, 1937Q

OP(Cr1.).No. 299 of 2015 (Q)

M.P.NO.775/2014 IN M.C.NO.262/2014 OF FAMILY COURT, ERNAKULAM

PETITIONER:

SUSMI, AGED 30 YEARS,
D/O.LATE SUDHAKARAN, THALAMITTATH HOUSE,
THAIKOODAM, ERNAKULAM.

BY ADV. SRI.T.N.SURESH

RESPONDENTS:

1. SAJITH LAL, AGED 41 YEARS,
S/O.SATHEESAN, KOLARIKKAL HOUSE, VARMA ROAD,
CFRPA 147, SOUTH CHITTOOR, ERNAKULAM,
KOCHI 682 027.

2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM 682 031.

R2 BY GOVERNMENT PLEADER SMT.MAYA

THIS OP (CRIMINAL) HAVING COME UP FOR ADMISSION ON
30-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

DSV/30/11/15

OP(Cr1.) .No. 299 of 2015 (Q)

APPENDIX

PETITIONER'S EXHIBITS :

EXHIBIT P1. COPY OF MP NO.775/2014 IN MC 262/14 FILED BY THE
PETITIONER BEFORE FAMILY COURT, ERNAKULAM.

EXHIBIT P2. COPY OF THE OBJECTION FILED BY THE IST RESPONDENT.

EXHIBIT P3. COPY OF THE ORDER DATED 4.4.15 IN MP 775/14 IN MC
262/14 OF FAMILY COURT, ERNAKULAM.

EXHIBIT P4. COPY OF THE MEMO DATED 03.11.2015.

RESPONDENTS' EXHIBITS :

NIL

// True Copy //

P.A. To Judge

DSV/30/11/15

B.KEMAL PASHA, J.

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O.P.(Crl.). No. 299 of 2015

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Dated this the 30th day of November, 2015

J U D G M E N T

Heard the learned counsel for the petitioner. No representation for the 1st respondent.

2. It seems that the court below has passed Exhibit-P3 order in the following lines:

“No affidavit filed. M.P. Dismissed.”

3. The learned counsel for the petitioner has pointed out that Exhibit-P1 C.M.P. was the one filed before the court below. It seems that it is a petition accompanied with an affidavit. The court below has committed a grave error in dismissing Exhibit-P1 through Exhibit-P3. If as a matter of fact, there was no affidavit appended with the petition, normally it would not have been numbered as a C.M.P.

In the result, this Original Petition(Criminal) is allowed and Exhibit-P3 stands quashed. The court below is directed to

dispose of Exhibit-P1 as expeditiously as possible, at any rate, within a period of one month from the date of receipt of a copy of this judgment.

Sd/-

**B. KEMAL PASHA
JUDGE**

DSV/30/11/15

// True Copy //

P.A. To Judge