

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.UBAID

WEDNESDAY, THE 30TH DAY OF SEPTEMBER 2015/8TH ASWINA, 1937

OP(Crl.).No. 317 of 2015 (Q)

MC 1/2012 of CHIEF JUDICIAL MAGISTRATE COURT, ERNAKULAM

=====

PETITIONER:

**NADINE VINCENT, AGED 34 YEARS
D/O VINCENT (LATE), FLAT NO. 12-B
TRINITY FLATS CROWN, EDAPPALLY PO
KOCHI-680 308, NOW RESIDING AT 6B
GOLDEN RESIDENCY, SA ROAD
KADAVANTHRA, KOCHII-16**

**BY ADVS.SRI.K.RAMAKUMAR (SR.)
SRI.K.LAKSHMINARAYANAN**

RESPONDENTS:

**1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM-682031.**

**2. THOMAS PO, S/O P.T.OUSEPH
PATHIPARAMB HOUSE, KORATTY
MURINGOORE P.O., PIN – 680309
CHALAKUDY, THRISSUR DISTRICT**

**R2 BY ADV. SMT.CHINCY GOPAKUMAR
R2 BY ADV. SMT.GISA SUSAN THOMAS
R2 BY ADV. SMT.K.S.SHALEEJA
R1 BY PUBLIC PROSECUTOR SMT. SHEEBA M.T.**

**THIS OP (CRIMINAL) HAVING COME UP FOR ADMISSION ON 30-09-2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

-
- EXT.P1. TRUE COPY OF THE AFFIDAVIT DATED 31/10/2012 FILED BY THE 2ND RESPONDENT BEFORE THE CHIF JUDICIAL MAGISTRATE COURT, ERNAKULAM IN MC NO. 1/2012.
- EXT.P2. TRUE COPY OF THE ORDER DATED 26/2/2014 IN CMP NO.998/2014 BEFORE THE CHIF JUDICIAL MAGISTRATE COURT, ERNAKULAM IN MC NO. 1/2012.
- EXT.P3. TRUE COPY OF THE APPLICATION SUBMITTD BY THE PETITIONER DATED 28/8/2014 BEFORE THE CHIF JUDICIAL MAGISTRATE COURT, ERNAKULAM .
- EXT.P4. TRUE COPY OF THE ORDER DATED 29/8/2014 OF THE CHIF JUDICIAL MAGISTRATE COURT, ERNAKULAM.
- EXT.P5. TRUE COPY OF THE ORDER DATED 27/8/2014 IN CMP NO.3841/2014 IN MC NO.1/2012 ON THE FILE OF THE CHIF JUDICIAL MAGISTRATE COURT, ERNAKULAM.
- EXT.P6. TRUE COPY OF THE APPLICATION DATED 21/9/2014 SUBMITTED BY THE PETITIOENR BEFORE THE CHIF JUDICIAL MAGISTRATE COURT, ERNAKULAM.
- EXT.P7. TRUE COPY OF THE APPLICATION DATED 7/8/2014 SUBMITTED BY THE PETITIOENR BEFORE THE CHIF JUDICIAL MAGISTRATE COURT, ERNAKULAM.

RESPONDENTS' EXHIBITS

NIL

TRUE COPY

P.A. TO JUDGE

SD

P. UBAID, J.

O.P. (Crl) No.317 of 2015

Dated this the 30th day of September, 2015

JUDGMENT

The petitioner herein is the petitioner in M.C.No.1/2012 before the Chief Judicial Magistrate Court, Ernakulam. It is a proceeding brought under Section 12 of Protection of Women from Domestic Violence Act, 2005 (for short, 'the D.V.Act'). An interim order passed by the learned Magistrate on application was challenged in appeal, and the appeal also stands disposed of. Later, the petitioner filed two applications before the learned Magistrate. One is for action against the respondent under Section 31 of the D.V.Act, and the other is for enforcement of the residence order passed by the court. The application for prosecution under Section 31 of the D.V.Act is now pending as C.M.P.No.4182/2014. As regards the other application for enforcement of the residence order, there is some confusion. The learned counsel submits that it is CMP No.3842/2014, whereas the proceeding before this Court consistently show that it is CMP No.3482/2015. Any way, both the applications are on pending before the learned Magistrate. The petitioner seeks a

direction for expeditious consideration and disposal of the two applications. As required by this Court, the learned Magistrate submitted a report on 19.09.2015. The learned Magistrate has reported that for taking decision on the application for prosecution he reasonably requires a period of three months. As regards the other application the learned Magistrate is not in a position to submit report, because the exact CMP number is not furnished by the petitioner. Any way, the learned Chief Judicial Magistrate is confident that the two applications can be decided and disposed of within three months. The said report can be recorded, and this original petition can be disposed accordingly.

In the result, the report of the learned Chief Judicial Magistrate dated 19.09.2015 is recorded, and the learned Magistrate is directed to consider and dispose of CMP No.418/2014 and also CMP No.3482/2014 (verify whether it is CMP No.3842/2014), within the period stated by the learned Magistrate. If disposal of the main proceeding itself is possible within three months, the learned Magistrate may dispose of M.C.No.1/2001 itself within the reported period.

Sd/-

P. UBAID, JUDGE

sd