

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 3RD DAY OF SEPTEMBER 2015/12TH BHADRA, 1937

WP(C).No. 34379 of 2006 (P)

PETITIONER(S):

**CHANDRIKA, AGED 46, W/O. ANANDAN,
PONNATHIL HOUSE, P.O.VALAPPAD, THRISSUR DISTRICT.**

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENT(S):

- 1. THE CONSUMER DISPUTES REDRESSAL FORUM,
AYYANTHOLE, THRISSUR.**
- 2. THE CIRCLE INSPECTOR OF POLICE,
VALAPPAD POLICE STATION, THRISSUR DISTRICT.**
- 3. SANTHOSH, S/O. PRABHAKARAN,
VELEKKATTU HOUSE, POST NATTIKA BEACH,
THRISSUR - 680 572.**

R1 & R2 BY GOVERNMENT PLEADER SRI.SOJAN JAMES

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
03-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 34379 of 2006 (P)

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXT.P1: A TRUE COPY OF MP.NO.175/2005 IN OP.NO.539/1999 DTD.6.6.2005 ON THE
FILE OF THE FIRST RESPONDENT.**

**EXT.P2: A TRUE COPY OF THE SUMMONS SERVED ON THE PETITIONER BY THE
FIRST RESPONDENT BASED ON EXT.P1 DTD.6.6.2005.**

EXT.P3: A TRUE COPY OF THE ORDER OF THE 1ST RESPONDENT DTD.2.8.2006.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

MsV/

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.34379 of 2006

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Dated this the 3rd day of September, 2015

JUDGMENT

The petitioner, who was the third respondent in a complaint filed before the first respondent forum, has approached this Court against the attempt to arrest her.

2. The petitioner was the third respondent in a complaint filed by the first respondent forum. The petitioner alleges that the said complaint was ordered by the first respondent forum. An application was filed by the complainant in the case seeking arrest of the petitioner, which according to the petitioner, is *per se* illegal, since the petitioner is a woman and the forum is not entitled to seek arrest of the petitioner. The petitioner alleges that on the petitioner raising objections, the arrest warrant once issued against her was recalled. However, again in the same petition, the first respondent has issued arrest warrant against the petitioner. The petitioner alleges that she has not received the copy of the order. It is with this background, the petitioner has approached this Court.

3. Arguments have been heard.

4. As could be seen from Exts.P1 to P3, the petitioner has objected to the proposal to issue arrest warrant against her. This was essentially because, going by the decision rendered by this Court in **Mary Chacko v. Jancy Joseph** [2005 KHC 1042] wherein it was observed that when an order is sought to be executed under Section 25 of the Consumer Protection Act, 1988 by a civil court, woman cannot be arrested in execution of the order passed by the forum or when the forum itself seeks to execute a similar order under Section 27.

5. Going by Exts.P1 and P2, the power has been exercised by the first respondent under the said provision which is highly illegal and is absolutely lack of jurisdiction. Besides that, the petitioner contended that she is not in possession of any sufficient means to discharge the liability and, therefore, it is a fact which ought to have been considered in an enquiry by the first respondent. Without following such a procedure, the arrest warrant issued against the petitioner is totally incompetent and, therefore, the same calls for an interference of this Court.

Therefore, the writ petition is allowed. Exts.P1 and P2 are quashed.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

krj