

Nazee Bashiruddin Vs. Nazeem

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Court : Kerala

Decided On : Jul-16-2013

Judge : Honourable Mr.Justice V.K.Mohanan

Appellant : Nazee Bashiruddin

Respondent : Nazeem

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE V.K.MOHANAN TUESDAY, THE 16TH DAY OF JULY 2013 25TH ASHADHA, 1935 CrI.MC.No. 2918 of 2013 () ----- (MC 7/2013 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-II, ATTINGAL) PETITIONERS/ACCUSED: ----- 1. NAZEE BASHIRUDDIN, AGED 6 YEARS W/O.BASHIRUDDIN, BANGLOW NO.2, ZENITH PARK OPP.BARC HOSPITAL, DEONAR FARM ROAD, CHEMBUR MUMBAI-88.

2. MAHARUNNISA KASSIM, AGED 6 YEARS W/O MUHAMMED KASIM, AMK MANZIL, PALLIKKAL.P.O KILIMANOR, THIRUVANANTHAPURAM, PIN-695601.

3. SUSEENA SHUKOOR, AGED 4 YEARS W/O.SHUKOOR, 319, GANDHI NAGAR VAZHUTHACAUD, THIRUVANANTHAPURAM, PIN-695614. BY ADVS.SRI.SHAIJAN C.GEORGE SMT.S.REKHA KUMARI SRI.M.T.AJITH

SMT.SAJITHA GEORGE RESPONDENTS/COMPLAINANT: -----

1. NAZEEM,, AGED 4 YEARS W/O.SHANA BABU, PUTHENKARA VEEDU (KALIYILIL PUTHENVEEDU, KATTAPUTHUSSERY, PALLIKKAL.P.O KILIMANOOR, THIRUVANANTHAPURAM-695601) 2. HISANA BABU, AGED 2 YEARS, D/O.SHANA BABU, PUTHENKADA VEEDU (KALIYILIL PUTHENVEEDU, KATTAPUTHUSSERY PALLIKKAL.P.O, KILIMANOOR, THIRUVANANTHAPURAM-695601.

3. SUB INSPECTOR OF POLICE, PALLIKKAL POLICE STATION, KILIMANOOR, THIRUVANANTHAPURAM.

4. STATE OF KERALA, REPD.BY PUBLIC PROSECUTOR, HIGH COURT FO KERALA ERNAKULAM. R BY PUBLIC PROSECUTOR SMT.S.HYMA THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 16-07-2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Crl.MC.No. 2918 of 2013 () -----

APPENDIX PETITIONER(S)' ANNEXURES:
----- A1 TRUE COPY OF THE PLAINT IN O.S.148/2013 BEFORE THE HON'BLE MUNSIFF COURT,VARKALA. A2 TRUE COPY OF THE INTERLOCUTORY APPLICATION.715/2013 BEFORE THE HON'BLE MUNSIFF COURT,VARKALA A3 TRUE COPY OF THE COUNTER AFFIDAVIT FILED BY THE 2ND PETITIONER A4 CERTIFIED COPY OF THE APPLICATION IN M.C.7/2013 BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT II,ATTINGAL. A5 CERTIFIED COPY OF PETITION U/S.23(2)OF THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT,2005 A6 A TRUE COPY OF THE ORDER DATRED 18 4.2013 A7 TRUE COPY OF THE COUNTER AFFIDAVIT DATED 13 5.2013. RESPONDENT(S)' EXHIBITS: NIL
----- TRUE COPY PA TO JUDGE SCL. V.K.MOHANAN, J.

----- Crl.M.C.No.2918 of 2013

----- Dated this the 16th day of July, 2013 ORDER
The grievance of the petitioners, who are counter petitioners in M.C.No.7 of 2013 on the file of the Judicial First Class Magistrate Court-II, Attingal, is that, after passing Annexure-6 order dated 18/4/2013 in a proceeding initiated under the provisions of the Protection of Women from Domestic Violence Act, the petitioners

are not permitted to visit their aged mother who is bed ridden and the learned Magistrate has not considered their Annexure-7 counter affidavit dated 13/5/2013 and no order is passed varying the order dated 18/4/2013.

2. Having regard to the facts and circumstances involved in the case, according to me, instead of retaining the above petition in this court, the same can be disposed of directing the court below to consider Annexure-7 counter- affidavit and to pass appropriate orders considering the request of the petitioners. It appears that Annexure-6 order CrI.M.C.No.2918 of 2013 :-2-: dated 18/4/2013 is an order passed based upon the affidavit filed by the petitioner therein. From Annexure-A7 counter affidavit particularly in view of the statement contained in paragraph 7, the petitioners have no objection in allowing the aggrieved person, in the above M.C., in residing in the shared household. Their only grievance is that, they won't have visitorial right to attend their bed ridden mother. The learned counsel for the petitioner submitted that, under the guise of the said order, with the help of police the petitioners are not permitted to enter into the building in question and to meet their old mother. In the above circumstances, the learned Magistrate is directed to consider Annexure-7 counter affidavit and pass appropriate orders in the interlocutory application, upon which Annexure-6 orders are passed, in accordance with the law and procedure. V.K.MOHANAN, JUDGE skj True copy P.A. to Judge

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