

B.Prasad Vs. State of Kerala

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Court : Kerala

Decided On : Aug-29-2014

Judge : Honourable Mr.Justice V.K.Mohanan

Appellant : B.Prasad

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE V.K.MOHANAN FRIDAY, THE 29TH DAY OF AUGUST 2014 7TH BHADRA, 1936 CrI.MC.No. 4969 of 2014 ----- M.C.NO.330/2011 OF FAMILY COURT, THRISSUR PETITIONER/PETITIONER/RESPONDENT:

----- B.PRASAD, AGED 51 YEARS, S/O.T.S.BHASKARAN, NO.16, SRI RANGA NAGAR, MOULIVAKKAM, PAUR, CHENNAI, TAMIL NADU. BY ADVS.SRI.S.RAJEEV SRI.K.K.DHEERENDRA KRISHNAN RESPONDENTS/RESPONDENTS/PETITIONER:

----- 1. STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM - 682 031.

2. T.S.BHASKARAN, S/O.THEVARKKATTIL SANKARAN, CHENTRAPPINI.P.O., KODUNGALLOOR TALUK. 683 518. R1 BY PUBLIC

PROSECUTOR SRI.DHANESH MATHEW MANJOORAN THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 29/08-2014, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: Kss CrI.MC.No. 4969 of 2014

----- APPENDIX PETITIONER(S)' ANNEXURES:
----- ANNEXURE I- TRUE COPY OF THE M.C.NO.330/2011 FILED BEFORE THE FAMILY COURT, THRISSUR DATED 27.6.2011. ANNEXURE II- TRUE COPY OF THE EX- PARTE

ORDER

IN M.P.NO.295/2014 IN M.C.NO.330/2011 DATED 16/07.2014 BY THE FAMILY COURT, IRINJALAKKUDA. ANNEXURE III- TRUE COPY OF THE M.P.NO.294/2014 IN M.C.NO.330/2011 DATED 16/06.2014. ANNEXURE IV- TRUE COPY OF M.P.NO.218/2014 IN M.C.NO.330/2011 DATED 09/05.2014. ANNEXURE V- CERTIFIED COPY OF THE

ORDER

IN M.P.NO.294/2014 IN M.C.NO.330/2014 DATED 16/07.2014 BY THE FAMILY COURT, IRINJALAKKUDA. ANNEXURE VI- TRUE COPY OF MARRIAGE INVITATION CARD OF THE PETITIONER'S DAUGHTER'S MARRIAGE. RESPONDENT(S)' ANNEXURES: ----- N I L
/TRUE COPY/ P.A.TO JUDGE Kss V.K.MOHANAN, J
===== CrI.M.C No.4969 of 2014
===== Dated this the 29th day of August, 2014

ORDER

Petitioner is the son of 2nd respondent herein, who approached the Family Court, Thrissur under Section 125 of the Code of Criminal Procedure seeking maintenance against his son - the petitioner herein, at the rate of `10,000/- and thus, instituted M.C3302011. As the petitioner was failed to defend the proceedings of the court below, he was set ex parte on 30/11/2011, directing the petitioner to pay maintenance at the rate of `10,000/-. Subsequently, the petitioner approached the court below by filing M.P No.294/2014 and 295/2014 among which the 1st petition to condone the delay of 837 days that occurred in filing M.P No.295/2014 with the prayer to set aside the ex parte order. When the court below

considered M.P No.294/2014 the delay petition and directed the petitioner to deposit 1/3 of the arrears in Crl.M.P No.218/2014 which is an execution petition. Accordingly, the Crl.M.C No.4969 of 2014 2 Judge, Family Court, Irinjalakuda granted time up to 29.08.2014. It is against the above order the petitioner approached this Court.

2. Heard Adv. Sri.S.Rajeev, learned counsel for the petitioner.

3. The contention of the learned counsel is that the order of the learned Judge of the Family Court is totally unsustainable and unheard in a proceeding like the present one. When this Court suggested, the learned counsel for the petitioner submitted that the petitioner is ready to pay a sum of `20,000/- in lump sum to the petitioner in the court below. The order under challenge, according to me, is not legally sustainable and therefore, Annexure V order has to go.

4. However, it is relevant to note that though the father of the petitioner approached the Family Court on 30.11.2011 no amount was paid by the petitioner except the amount attached through the salary of the petitioner. The learned counsel for the petitioner submitted that as the marriage of the petitioner's daughter is scheduled on 12.09.2014, a breathing time may be granted to the petitioner to deposit the amount. The said submission cannot be allowed. Crl.M.C No.4969 of 2014 3 5. Having regard to the facts and circumstances involved in the case, according to me, by dispensing notice to the 2nd respondent herein this Crl.M.C can be disposed of directing the Family Court Irinjalakuda to take up M.P No.294/2011 and to pass appropriate orders thereof. In the result, the petitioner is directed to deposit a sum of `20,000/- in the Family Court, Irinjalakuda or pay the same amount directly to the 2nd respondent whichever subject to the satisfaction of the learned Judge of the Family Court and on complying the above direction the learned Judge of the Family Court is directed to take M.P Nos.294/2014 and 295/2014 in M.C No.330/2011 and pass appropriate orders on appropriate terms, untrammelled by the terms imposed in this order and in order to enable the court to pass such order, Annexure V order stand quashed. It is made clear that the amount which would be paid by the petitioner in terms of the direction contained in this Order can be adjusted towards the arrears, on the basis of the outcome in the

above proceedings. Sd/- V.K.MOHANAN, JUDGE vdv //True Copy// P.A to Judge

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