

Sreenivasan Vs. Anitha Kumari

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Court : Kerala

Decided On : Sep-22-2014

Judge : Honourable Mr.Justice V.K.Mohanan

Appellant : Sreenivasan

Respondent : Anitha Kumari

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE V.K.MOHANAN MONDAY, THE 22D DAY OF SEPTEMBER 2014 31ST BHADRA, 1936 CrI.Rev.Pet.No. 730 of 2014 ()
----- REVISION PETITIONER(S)/APPELLANT/ACCUSED:
----- SREENIVASAN AGED 36 YEARS S/O. SREEDHARAN, KOTTARAMVEETIL, MELPADAM MURI VEEYAPURAM VILLAGE, ALAPPUZHA-690514. BY ADVS.SRI.T.RAJESH SRI.BENNY JOSEPH
RESPONDENT(S)/RESPONDENT: ----- 1.W/O. ANITHA KUMARI, AGED 30 YEARS SREENIVASAN, PEROOR VEEDU, KANICHANALLOOR MURI CHEPPAD VILLAGE, FROM KOTTARATHIL VEEDU, MELPADAM MURI VEEYAPURAM VILLAGE, ALAPPUZHA-690514.

2. SANIYA, AGED 5 YEARS D/O. ANITHA KUMARI, REPRESENTED BY MOTHER, 1ST RESPONDENT 3 KAMALAN,, AGED 50 YEARS KOTTARATHIL VEEDU, MELPADAM MURI, VEEYAPURAM VILAGE ALAPPUZHA-690514.
4.KOTTARATHIL SATHYAN,, AGED 45 YEARS VEEDU, MELPADAM MURI,

VEEYAPURAM VILLAGE ALAPPUZHA-690514. Crl.Rev.Pet.No. 730 of 2014 ()
5.KOTTARATHIL35 YEARS SUMA, AGED VEEDU, MELPADAM MURI,
VEEYAPURAM VILLAGE ALAPPUZHA-690514.

6. STATE OF KERALA, REPRESENTED BY ITS CHIEF SECRETARY
THIRUVANANTHAPURAM-695001. BY PUBLIC PROSECUTOR SMT. R. REMA
ADMISSION ON 22-09-2014, THE COURT ON HAVING THIS CRIMINAL
REVISION PETITION COME UP FOR THE SAME DAY PASSED THE
FOLLOWING: V.K. MOHANAN, J.

----- Crl. R.P. No. 730 of 2014 -----
Dated this the 22nd day of September, 2014

ORDER

Petitioner is the first respondent in Crl.M.C. 39 of 2014 which is a proceedings instituted under Sec. 12 of the Protection of Women from Domestic Violence Act, 2005 on the file of the Judicial First Class Magistrate , claiming various reliefs. By order dated 6-1-2014 in C.M.P.No. 1367/2013 , the learned Magistrate granted the following reliefs in favour of the aggrieved persons who are the wife and daughter of the revision petitioner :

1. Respondents are restrained from causing any physical and mental torture to the petitioners. 2) Respondents are restrained from alienating 36 = cents of property in re-survey No. 399/4-1 and 399/2-1 of Cheppad Village. Crl. R.P. No. 730 of 2014 2
3) First respondent is directed to pay interim maintenance at the rate of Rs. 4,000/- to the first petitioner. 4) Interim maintenance allowed to the second petitioner at the rate of Rs. 4,00/- per month from the first respondent made absolute and first respondent is directed to pay interim maintenance at that rate to the second petitioner from 21-6-2013".

2. Aggrieved by the above interim orders, revision petitioner herein preferred Crl.A. No. 42/2014 and filed Crl.M.P. No. 50/2014 in the above appeal, with a prayer to suspend the sentence in Crl.M.C. No. 39/2013 , since the aggrieved persons preferred an application to execute the interim relief granted in favour of them.

3. By order dated 14-2-2014, the learned Addl. Sessions Judge, passed an interim order that the petitioner/appellant shall deposit or pay the entire arrears of maintenance calculated @ Rs. 3,000/- per month (Total amount is Rs. 6,000/-) and continue to pay the same till the disposal of the appeal. It is against the said order, the appellant in the lower appellate court/the respondent in the Crl. R.P. No. 730 of 2014 3 trial Court preferred this revision petition.

3. Heard the learned counsel for the petitioner as well as the learned Public Prosecutor.

4. The learned counsel for the petitioner vehemently submitted that the total earning of the petitioner as pension is only Rs. 8,000/- and in case the petitioner is forced to pay the amount ordered by the lower appellate court as per the impugned order, the remaining amount would be Rs. 2,000/- which is insufficient for him to meet his daily expenses. Therefore, the learned counsel for the petitioner submitted that the impugned order is liable to be set aside.

5. Having regard to the facts and circumstances of the case, and especially, when the appeal is pending before the lower appellate court, particularly, when the appeal is preferred against the interim order passed by the trial court, I am of the view that this Revision Petition itself to be disposed of directing the lower appellate court to dispose of the appeal pending before him, as expeditiously as possible. I am not proposed to enter into any finding about the quantum of Crl. R.P. No. 730 of 2014 4 maintenance ordered to paid by the petitioner either of the lower appellate court or by the trial court. In the result, this Revision Petition is disposed of directing the lower appellate court to consider the Crl.Appeal No. 42/2014 as expeditiously as possible and dispose of the same within three months from the date of producing copy o this order before the appellate court. It is made clear that the revision petitioner shall comply with the interim order issued by the appellate court which is under challenge in the above revision petition, in the meanwhile. Dated this the 22nd day of September, 2014. Sd/- V.K. MOHANAN, JUDGE. ani/
/truecopy/ P.S. ToJudge