

Varkey Pj vs Elizabeth

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SooperKanoon Citation : sooperkanoon.com/1309049

Court : Kerala

Decided On : Feb-15-2024

Judge : Honourable Mrs. Justice Sophy Thomas

Appeal No. : Crl.MC/1494/2024

Appellant : Varkey Pj

Respondent : Elizabeth

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE SOPHY THOMAS
THURSDAY, THE 15TH DAY OF FEBRUARY 2024 / 26TH MAGHA,
CRL.MC NO. 1494 OF 2024 AGAINST THE ORDER/JUDGMENT MC
1/2022 OF JUDICIAL FIRST CLASS MAGISTRATE COURT - II,
KOTHAMANGALAM PETITIONERS/APPELLANTS/RESPONDENTS 1
TO 3, 5, 7 TO 9:

1 VARKEY PJ AGED 59 YEARS S/O JOSEPH PALAMALAYIL HOUSE,
THENGOD OONNUKAL P.O, NERIAMANGALAM ERNAKULAM
DISTRICT, PIN - 2 JOB AGED 46 YEARS S/O JOSEPH PALAMALAYIL
HOUSE, THENGOD OONNUKAL P.O, NERIAMANGALAM

ERNAKULAM DISTRICT, PIN - 3 MARY AGED 66 YEARS W/O. ABRAHAM OUTHIMALA, KOTTAPADY P.O PUNNAKKAL, KOTHAMANAGALAM ERNAKULAM DISTRICT, PIN - 686692 4 CHINNAMA AGED 61 YEARS W/O. BABY MALIPPARA P.O, PUNNAKKAL KOTHAMANAGLAM, ERNAKULAM DISTRICT, PIN - 686681 5 AMMINI AGED 74 YEARS W/O. MATHAI NADUKUDIYIL HOUSE, KUTHUKUZH P.O KOTHAMANAGLAM, ERNAKULAM DISTRICT, PIN - 686691 6 BABY AGED 63 YEARS PUTHAKKAL, MALIPPARA P.O KOTHAMANAGALAM, ERNAKULAM DISTRICT, PIN - 686681 7 SAJU AGED 53 YEARS PARAKUDIYIL HOUSE, PERAKUTH OONNUKAL P.O, ..2..

KOTHAMANGALAM ERNAKULAM DISTRICT, PIN - 686693 BY ADVS. ALIAS M.CHERIAN K.M.RAPHY BRISTO S PARIYARAM AMEERA JOJO MINNU DARWIN RESPONDENTS/PETITIONER & RESPONDENTS 4 AND 6 AND STATE OF KERALA:

1 ELIZABETH AGED 53 YEARS W/O. VARKEY PALAMALAYIL HOUSE, THENGOD OONNUKAL P.O, NERIAMANAGALAM ERNAKULAM DISTRICT, PIN - 2 SALOMI AGED 56 YEARS W/O. MATHEWS NIRAVATH KANDATHIL, MANGAPARA ADIMALI P.O, IDUKKI DISTRICT, PIN - 685561 3 SINI CHERIAN AGED 46 YEARS W/O. SAJAN PALAMALAYIL, THIRUVALLA P.O PATHANAMTHITTA DISTRICT, PIN - 689101 4 STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR DISTRICT COURT, ERNAKULAM, PIN - 682011 SR.PP-SRI.VIPIN NARAYANAN

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 15.02.2024, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: ..3.. SOPHY THOMAS, J

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Dated this the 15th day of February, 2024

ORDER

The petitioners herein are respondent nos.1, 2, 3, 5, 7, 8 and 9 in MC No.1/2022 on the file of Judicial First Class Magistrate Court, Kothamangalam(Temporary) challenging the distress warrant issued against the 1st respondent.

2. The wife, filed MC No.1/2022 under the Domestic Violence Act and obtained Annexure A3 order dated 17.06.2023 for interim maintenance at the rate of Rs.5,000/- per month, along with some other reliefs.

3. The petitioners filed Criminal Appeal No.271/2023 before the Sessions Court, Ernakulam challenging Annexure A3

order with a delay of seven days, and that petition is pending

consideration of that Court. Meanwhile, the 1 st respondent - wife proceeded for executing the interim order of maintenance awarded in Annexure A3 order, and distress warrant was issued against the husband. He is ready to pay the entire arrears of maintenance from the date of order, as ordered in Annexure A3. But the wife has claimed huge amount as arrears ..4.. on a wrong calculation. Now his limited prayer is to permit him to remit the arrears of interim maintenance at the rate of Rs.5,000/- per month, from the date of order i.e. 17.06.2023.

4. In such circumstances, the learned Judicial First

Class Magistrate Court, Kothamangalam (Temporary), is directed to calculate the arrears of maintenance as ordered in Annexure A3 order, and permit the 1st petitioner/husband to pay the arrears to the 1st respondent wife, on or before 26.02.2024. If the 1st respondent - wife is not available/ready to accept that amount, the 1st petitioner - husband can be permitted to deposit that amount before the Court.

5. Till 26.02.2024, the distress warrant pending against the 1st petitioner shall be kept in abeyance.

6. Registry to forward a copy of this order to the

Judicial First Class Magistrate Court, Kothamangalam (Temporary) forthwith for compliance. With these directions, this CrI.M.C. is disposed of. Sd/- SOPHY THOMAS JUDGE ACR ..5.. APPENDIX OF CRL.MC 1494/2024 PETITIONER ANNEXURES Annexure A1 TRUE COPY OF THE INTERLOCUTORY APPLICATION C.M.P NO. 26 OF 2022 IN M.C NO 1 OF 2022 BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT -II, Annexure A2 TRUE COPY OF THE OBJECTION IN C.M.P NO. 26 OF 2022 IN M.C NO. 1 OF 2022 BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT -II, KOTHAMANGALAM

Annexure A3 TRUE COPY OF THE ORDER DATED M.C NO 1 OF 2022 PASSED BY JUDICIAL FIRST CLASS MAGISTRATE COURT -II, Annexure A4 TRUE COPY OF THE MEMORANDUM OF CRIMINAL APPEAL NO. 271 OF 2023 FILED BEFORE THE SESSION'S COURT, ERNAKULAM Annexure A5 TRUE COPY OF THE APPLICATION FOR STAY PETITION DATED 26/07/2023 FILED BEFORE THE SESSION'S COURT, ERNAKULAM Annexure A6 TRUE COPY OF THE APPLICATION FOR DELAY PETITION DATED 26/07/2023 FILED BEFORE THE SESSION'S COURT, ERNAKULAM Annexure A7 TRUE COPY OF THE PETITION CMP NO. 2030 OF 2023 DATED 03/11/2023 BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT - II, KOTHAMANGALAM Annexure A8 TRUE COPY OF THE OBJECTION IN CMP NO. 2030 OF 2023 BEFORE THE JUDICIAL FIRST CLASS MAGISTRATE COURT -II, Annexure A9 CERTIFIED COPY OF THE PROCEEDINGS DATED 06/01/2024 IN MC NO. 1 OF 2022 ON THE FILE OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT -II,

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