

Shine vs State of Kerala

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Court : Kerala

Decided On : Jul-03-2023

Judge : Honourable Mr. Justice Raja Vijayaraghavan V

Appeal No. : Crl.MC/4928/2021

Appellant : SHINE

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V MONDAY, THE 3RD DAY OF JULY 2023 / 12TH ASHADHA, 1945 CRL.MC NO. 4928 OF 2021 AGAINST THE ORDER DATED 11.8.2021 IN CRL.M.P NO.1/2021 IN MC 153/2021 OF FAMILY COURT, THIRUVANANTHAPURAM PETITIONER/COUNTER PETITIONER: SHINE S/O WILLIAM, THOTTAM VEEDU, KADAVAKUZHI, VILAVAMCODE TALUK, KANYAKUMARI DISTRICT, TAMILNADU, NOW WORKING IN AADESH SHIP, INDIAN COAST GUARD, TUTICORIN DISTRICT, TAMILNADU. BY ADV SHAJIN S.HAMEED RESPONDENTS/STATE & PETITIONER: 1 STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH

COURT OF KERALA, ERNAKULAM, PIN-682031. 2 AKHI CHANDRAN AGED 25 YEARS D/O MINI GODWIN, GODWIN BHAVAN, EDUKKATHUKONAM, ELLUVILA P.O, KUNNATHUKAL VILLAGE, NEYYATTINKARA, THIRUVANANTHAPURAM DISTRICT, PIN-695504. BY ADVS. BENET SELVAN S. E.D.GEORGE(K/61/1996) SRI.T.R RENJITH, SR. PP THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 03.07.2023, THE COURT ON THE SAME DAY PASSED THE FOLLOWING: CRL.MC NO. 4928 OF 2021 2

ORDER

This petition is filed challenging the order passed by the learned Family Court, Thiruvananthapuram in Crl. M.P No.1 of 2021 in M.C No.153 of 2021. The said application is filed by the wife/2nd respondent seeking interim

2. The learned Family Court taking note of the fact that the petitioner

is working in the Indian Coast Guard and also the fact that no counter affidavit was filed, ordered the petitioner to pay a sum of Rs.10,000/- by way of interim

3. Sri.Shajin S. Hameed, the learned counsel appearing for the

petitioner, submits that no opportunity was granted to the petitioner herein to file an objection. According to the learned counsel, the order was passed without notice to the petitioner as well. The learned counsel would further submit that the matter has already been resolved between the parties.

4. In response, the learned counsel appearing for the respondent

submits that the case has been transferred from the Family Court, Thiruvananthapuram, to the Family Court, Neyyattinkara, and has been re-numbered as M.C 77/2023. He submits that he has no objection in setting aside the order and in ordering the consideration of the matter afresh.

5. I have considered the submissions advanced. Both sides agree that

the principles of natural justice were not complied with in as much as no CRL.MC NO. 4928 OF 2021 3 opportunity was granted to the petitioner to raise his objections. In that view of the matter, Annexure-C order cannot be sustained under law. Resultantly, Annexure-C is set aside. The learned Family Court, Neyyattinkara, is directed to reconsider the matter and pass fresh orders

within a period of four weeks from the date of receipt of a copy of this order

with notice to both sides. Sd/- RAJA VIJAYARAGHAVAN V JUDGE Sru CRL.MC NO. 4928 OF 2021 4 APPENDIX OF CRL.MC 4928/2021 PETITIONERS ANNEXURES Annexure A PHOTOCOPY OF THE PETITION M C NO.153/2021 FILED BY THE 2ND RESPONDENT BEFORE THE FAMILY COURT, Annexure B PHOTOCOPY OF THE PETITION CRL M P NO 1 /2021 IN MC NO.153/2021 ON THE FILE OF THE FAMILY COURT, Annexure C CERTIFIED COPY OF THE ORDER DATED 11/08/2021 IN CRL M P 01/2021 IN M.C.NO.153/2021 OF FAMILY COURT, THIRUVANANTHAPURAM. Annexure D PHOTOCOPY OF THE E-COURT STATUS OF THE FAMILY COURT, THIRUVANANTHAPURAM IN MC NO.153/2021. Annexure E PHOTOCOPY OF THE STATEMENT OF ACCOUNT OF THE

ACCOUNT NUMBER 3113560543 MAINTAINED BY THE PETITIONER IN STATE BANK OF INDIA, PRASSALA TOWN BRANCH FOR THE PETITIONER FROM 16.01.21 TO 09.07.2021. Annexure F PHOTOCOPY OF THE PAY IN SLIP ISSUED FROM OFFICE OF THE CDA (COAST GUARD) DELHI.

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