

Haseena K.E vs Shebeeb

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Court : Kerala

Decided On : Nov-30-2023

Judge : Honourable Mr. Justice Gopinath P.

Appeal No. : Tr.P(Crl.)/70/2023

Appellant : Haseena K.E

Respondent : Shebeeb

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE GOPINATH P.
THURSDAY, THE 30TH DAY OF NOVEMBER 2023 / 9TH
AGRAHAYANA, 1945 TR.P(CRL.) NO. 70 OF 2023 AGAINST THE
ORDER/JUDGMENT MC 3/2023 OF JUDICIAL FIRST CLASS MAGIST.
COURT, KOTHAMANGALAM(TEMPORARY)

PETITIONER/S: HASEENA K.E AGED 45 YEARS, W/O SHEBEEB,
ELANJAYIL (H), PULINTHANAM P.O, PARAMBANCHERY,
ENANELLOOR VILLAGE, POTHANIKKAD, PIN - 686671 BY ADVS.
P.DEEPTHI O.V.DEEPA RESPONDENT/S: 1 SHEBEEB AGED 45
YEARS S/O ALIYAR, ELANJAYIL HOUSE, PULINTHANAM P.O,
PARAMBANCHERY, ENANELLOOR VILLAGE,

POTHANIKKAD,ERNAKULAM, PIN - 686671 2 HAMSA ALIYAR AGED 43 YEARS, S/O ALIYAR, ELANJAYIL HOUSE, PULINTHANAM P.O, PARAMBANCHERY, ENANALLOOR VILLAGE, POTHANIKKAD.,ERNAKULAM, PIN - 686671 3 SHAMEER AGED 48 YEARS, S/O ALIYAR, ELANJAYIL HOUSE, PULINTHANAM P.O, PARAMBANCHERY, ENANALLOOR VILLAGE, POTHANIKKAD.,ERNAKULAM,, PIN - 686671 4 ALIYAR A.M AGED 74 YEARS ILANJYIL HOUSE PULINTHANAM P O PARAMBANCHERY, ENANALLOOR VILLAGE POTHANIKKAD,ERNAKULAM, PIN - 686671 5 FATHIMA ALIYAR AGED 84 YEARS, ELANJAYIL HOUSE, PULINTHANAM P.O, PARAMBANCHERY, ENANALLOOR VILLAGE, POTHANIKKAD.,ERNAKULAM, PIN - 686671 Tr.P.C. No.70/2023 -2- 6 STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,HIGH COURT OF KERALA, PIN - 682031 BY ADVS. P.MOHAMED SABAH SAIPOOJA(K/001130/2016) LIBIN STANLEY(K/250/2015) SADIK ISMAYIL(K/000238/2014) R.GAYATHRI(K/249/2014) M.MAHIN HAMZA(K/000113/2017)

OTHER PRESENT: SRI VIPIN NARAYAN (SR PP) THIS TRANSFER PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON 30.11.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: Tr.P.C. No.70/2023 -3-

ORDER

The petitioner filed M.C No.3/2023 under the provisions of the Protection of Women from Domestic Violence Act,2005 before the Judicial First Class Magistrate Court-II, Kothamangalam. Certain interim orders have been passed in the said matter. The petitioner who was working at the Govt. Taluk Hospital, Pothanikkad on working arrangement has now been transferred to Thrissur District. Two daughters of the petitioner who are living with the petitioner are studying at St. Mary's School, Thrissur and both are stated to be Scoliosis patients undergoing treatment at an Ayurvedic Centre in Thrissur. This transfer petition has been filed seeking a transfer of M.C No.3/2023 pending before the Judicial First Class Magistrate Court-II, Kothamangalam to the competent Judicial First Class

Magistrate Court, Thrissur.

2. The learned counsel appearing for respondents 1 to 5 seeks time to

file a detailed counter affidavit in the matter. He states that certain allegations have been raised against respondents and therefore it is absolutely necessary to place a counter affidavit on record. However, I do not intend to go into any of the allegations raised against the respondents in this petition as I am only considering the request for transfer of the proceedings from Kothamangalam to Thrissur. In that view of the matter I do not intend to adjourn this petition to enable the counsel for respondents 1 to 5 to file counter affidavit. The Tr.P.C. No.70/2023 -4- circumstances of the petitioner are as noticed above. She is working in Government service and has been transferred to Thrissur. Two daughters born out of the relationship between the petitioner and the 1st respondent are studying in an school at Thrissur. They are also stated to be Scoliosis patients undergoing treatment at an Ayurvedic Centre, Thrissur. This fact is not disputed by the learned counsel for respondents 1 to 5. Therefore I am inclined to direct that MC No.3/2023 now pending before the Judicial First Class Magistrate Court-II, Kothamangalam shall be transferred to competent Judicial First Class Magistrate Court, Thrissur. The Chief Judicial Magistrate Court, Thrissur shall, on transfer of the proceedings allot M.C. No.3/2023 now pending before the Judicial First Class Magistrate Court-II, Kothamangalam, allot the case to a competent Judicial First Class Magistrate Court at Thrissur. Transfer petition is disposed of as above. The registry shall communicate a copy of this order to the Judicial First Class Magistrate Court-II, Kothamangalam as also to the Chief Judicial Magistrate Court, Thrissur. Sd/- GOPINATH P. JUDGE AMG Tr.P.C. No.70/2023 -5- APPENDIX OF TR.P(CRL.) 70/2023 PETITIONER ANNEXURES Annexure A1 THE PHOTO COPY THE MC NO. 3/2023 FILED BY THE PETITIONER Annexure A2 THE PHOTOCOPY OF THE TRANSFER ORDER NO. AVD Annexure A3 THE PHOTO COPY OF THE MEDICAL RECORDS OF THE PETITIONERS DAUGHTERS Annexure A4 THE PHOTO COPY OF THE LETTER ISSUED BY THE DOCTOR REGARDING THE TREATMENT OF PETITIONER NO. 2 Annexure A5 COPY OF THE PROTECTION ORDER FROM THE HON'BLE JFCM II KOTHAMANGALAM U/S 12 OF THE DOMESTIC VIOLENCE ACT

