

Pradeep vs Divya

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SooperKanoon Citation : sooperkanoon.com/1401641

Court : Kerala

Decided On : Dec-01-2023

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : OP(Crl.)/827/2023

Appellant : Pradeep

Respondent : DIVYA

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
FRIDAY, THE 1ST DAY OF DECEMBER 2023 / 10TH AGRAHAYANA,
1945 AGAINST THE ORDER IN CMP NO.1234/2022 IN M.C.
NO.246/2019 OF FAMILY COURT, PALAKKAD.
PETITIONER/RESPONDENT: PRADEEP, AGED 33 YEARS, S/O.
RAMAN, PARAKKAL HOUSE, KANNIMANGALAM P.O., NENMARA,
CHITTUR TALUK, PALAKKAD DISTRICT, KERALA, PIN-678 508. BY
ADVS. SRIKANTH THAMBAN SRAVAN M.S.
RESPONDENTS/PETITIONERS: 1 DIVYA, AGED 27 YEARS, D/O.
SREEDHARAN, KANIYAMKODE HOUSE, KUTHANNUR P.O.,
ALATHUR TALUK, PALAKKAD DISTRICT, KERALA, PIN-678 721. 2

VAIGHA, AGED 4 YEARS, D/O. PRADEEP, KANIYAMKODE HOUSE, KUTHANNUR P.O., ALATHUR TALUK, PALAKKAD DISTRICT, KERALA, PIN-678 721. BY ADVS. V.PREMCHAND HALIYA T.P.(K/001754/2022) MAHADEV M.J.(K/182/2022) THIS OP (CRIMINAL) HAVING COME UP FOR ADMISSION ON 01.12.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -2-

P.V. KUNHIKRISHNAN, J.

----- Dated this the 1st day of
December, 2023

JUDGMENT

This Original Petition (Criminal) is filed with the following prayers:- i. Issue a direction, order, or any other necessary conventions, to set aside the Order dated 17.02.2023 in Criminal Misc Petition No. the Honourable Family Court, at Palakkad. ii. Issue a direction, order, or any other necessary conventions to stay the proceedings of the Criminal Misc Petition No. 1234/2022 in M.C. No. (Criminal) without any cost in the interest of Justice and Equity. iii. Issue a direction, order, or any necessary conventions to reduce the arrears amount to be paid by the Petitioner to the Respondents as the Petitioner is not having the proper income to -3- settle a humungous amount as necessitated by the Order dated 17.02.2023 in Criminal Misc Petition No. 1234/2022 in M.C. No. 246/2019, on the files of the Honourable Family Court at Palakkad. iv. Issue such other order, or direction as this Honble Court may deem fit and proper and necessary in the facts and circumstances of the cases.

2. The Family Court ordered interim maintenance

as per Ext.P1 order in which it is stated that the petitioner is directed to pay interim maintenance at the rate of Rs.4,500/- per month to the 1 st respondent and at the rate of Rs.2,000/- to the 2nd respondent from the date of main petition, i.e., 27.09.2019. The petitioner is mainly aggrieved about the date from which the

interim maintenance is to be paid. According to the petitioner, the interim maintenance application is filed subsequent to the main petition. The contention is that the interim maintenance may be restricted from the date of the interim

order passed by the Family Court.

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3. Heard the counsel for the petitioner and the counsel appearing for the respondents.

4. After hearing both sides, I think the Family Court

erred in passing the interim maintenance from the date of main petition. The Family Court ought to have granted interim maintenance from the date on which the interim maintenance application is filed. Therefore, that modification can be made in the order.

5. It is submitted by both sides that the interim

maintenance application was filed on 22.11.2022. The petitioner is bound to pay the interim maintenance as ordered in Ext.P1 from that date onwards. Therefore, this Original Petition (Criminal) is disposed of with the following direction:- The interim maintenance ordered as per Ext.P1 need to be paid only from 22.11.2022 which is the date on which the interim maintenance application is filed. Sd/- P.V. KUNHIKRISHNAN JUDGE

bpr -5- APPENDIX OF OP(CRL.) 827/2023 PETITIONER'S EXHIBITS Exhibit P1 TRUE COPY OF THE ORDER IN I.A. NO. FAMILY COURT AT PALAKKAD DATED 17.02.2023 Exhibit P2 TRUE COPY OF THE INCOME CERTIFICATE ISSUED BY THE NENMARA VILLAGE OFFICE DATED 05.10.2023 Exhibit P3 TRUE COPY OF THE DIAGNOSIS REPORT OF THE PETITIONER'S MOTHER Exhibit P4 TRUE COPY OF THE DEATH CERTIFICATE ISSUED BY THE NENMARA GRAMA PANCHAYAT DATED 16.08.2023