

Sathyanathan vs Sheena

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Court : Kerala

Decided On : Feb-09-2022

Judge : Honourable Mrs. Justice Mary Joseph

Appeal No. : OP(Crl.)/15/2022

Appellant : Sathyanathan

Respondent : Sheena

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MRS. JUSTICE MARY JOSEPH
WEDNESDAY, THE 9TH DAY OF FEBRUARY 2022 / 20TH MAGHA,
1943 AGAINST THE ORDER IN CMP 445/2020 IN MC 17/2012 OF
JUDICIAL FIRST CLASS MAGISTRATE COURT.-I,ERNAKULAM

PETITIONER/RESPONDENT: SATHYANATHAN AGED 58 YEARS
XS/O. GOVINDAN, QUARTER NO. 1/9, T.C.C FLAT, PATHALAM
COLONY, PATHALAM, UDYOGAMANDAL P.O, ERNAKULAM 683501
BY ADVS. B.PRAMOD NAMITHA JYOTHISH BIJU VIGNESWAR
RESPONDENT/PETITIONER: SHEENA AGED 51 YEARS W/O.
SATHYANATHAN, FLAT NO. 22, J.M HOMES, NETHAJI ROAD,
PALARIVATTOM P.O, KOCHI 682 025 BY ADV DINESH MATHEW

J.MURICKEN THIS OP (CRIMINAL) HAVING COME UP FOR ADMISSION ON 09.02.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

This Original Petition is filed under Article 227 of the Constitution of India seeking for the following reliefs: (i) Direct speedy disposal of Crl.M.P. No.2146/2021 in Crl.A No.270/2021 pending before the VIIth Additional Sessions Court, Ernakulam within the time limit which may be fixed by this Hon'ble Court.

(ii) Pass an order staying the operation of Ext.P5

order of the Judicial First Class Magistrate-I,

Ernakulam in C.M.P. No.445/2020 in M.C. No.17/2012, till the disposal of Ext.P7 petition.

(iii) Pass such other and further reliefs as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case;

2. It is submitted by the leaned counsel for the petitioner

that the order directing payment of Rs.2500/- as interim maintenance allowance was passed by Judicial First Class Magistrate Court-I, Ernakulam in CMP No. 445/2020 in M.C. No.17/2012. After passing of the order, an application has been filed by the petitioner seeking to realise the amount ordered in the M.P as interim monthly maintenance allowance and also that awarded in the M.C. It is contended that if limitation is applicable, no amount is due from him, and if limitation is not applicable, Rs.1,60,000/- is the sum due, out of which, Rs.90,000/- has already been paid. Therefore, the respondent is entitled to realise only Rs.70,000/-.

3. This Court finds from the reliefs sought that, the first

relief is for a direction to VIIth Additional Court of Sessions, Ernakulam for expeditious disposal of Crl.M.P. No.2146/2021 in Crl.A. No.270/2021 pending on

its file. An appeal was filed against the order passed in M.P., but it is still pending for the reason that a judicial officer is not holding the office.

4. In the above circumstances, this Court finds it

inexpedient in the interest of justice to pass an order, delving on the merits of the case, since the VII th Additional Court of Sessions, Ernakulam has already seized of the appeal and is pending consideration there. Since the Presiding Officer is not posted, this Court issues direction to the Judicial Officer now holding charge of VIIth Additional Court of Sessions, Ernakulam to take up Crl.Appeal No.270/2021 and to pass appropriate interim orders in Crl.M.P No.2146/2021 after hearing both parties, within a period of three weeks from this day. The O.P.(Crl) is disposed of as above. Sd/- MARY JOSEPH JUDGE al/-. APPENDIX OF OP(CRL.) 15/2022 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF THE ORDER DATED 10-12-2019 PASSED BY THE JUDICIAL FIRST CLASS MAGISTRATE-1, ERNAKULAM IN M.C NO. 17/2012 Exhibit P2 TRUE COPY OF THE MEMORANDUM OF C.M.P NO. PREFERRED BY THE RESPONDENT HEREIN BEFORE THE JFCM-1, ERNAKULAM Exhibit P3 TRUE COPY OF THE PETITION IN C.M.P NO. RESPONDENT HEREIN ON JANUARY 2021 Exhibit P4` TRUE COPY OF THE DETAILED OBJECTION DATED NIL FILED BY THE PETITIONER HEREIN IN C.M.P NO. Exhibit P5 TRUE COPY OF THE ORDER DATED 11-11-2021 IN C.M.P NO. 445/2020 IN M.C NO. 17/2012 OF THE JUDICIAL FIRST CLASS MAGISTRATE-1, ERNAKULAM Exhibit P6 TRUE COPY OF THE MEMORANDUM OF CRL.APPEAL

DATED 26-11-2021 FILED BY THE PETITIONER HEREIN BEFORE THE DISTRICT SESSIONS COURT, ERNAKULAM AS CRL.A NO. 270/2021 Exhibit P7 TRUE COPY OF THE STAY PETITION DATED 26-11- 2021 FILED BY THE PETITIONER HEREIN BEFORE THE DISTRICT SESSIONS COURT, ERNAKULAM AS CRL MP NO. 2146/2021 IN CRL.A NO. 270/2021

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