

**George Thomas, vs Jisha Thomas,**

**George Thomas, vs Jisha Thomas,**

**SooperKanoon Citation :** [sooperkanoon.com/1546402](https://sooperkanoon.com/1546402)

**Court :** Kerala

**Decided On :** Jan-18-2022

**Judge :** Honourable Dr. Justice Kauser Edappagath

**Appeal No. :** OP(Crl.)/468/2021

**Appellant :** George Thomas,

**Respondent :** Jisha Thomas,

**Judgement :**

OP(Crl.)Nos.439/2021 & 468/2021 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH  
WEDNESDAY, THE 18TH DAY OF JANUARY 2022 / 22ND POUSHA,  
1943 OP(CRL.) NO. 439 OF 2021 AGAINST THE ORDER IN CRL.M.P  
240/2019 IN MC 117/2019 OF FAMILY COURT, ALAPPUZHA  
PETITIONERS/PETITIONERS:

1 JISHA THOMAS, AGED 41 YEARS D/O. THANKAMMA THOMAS,  
PUTHENKOYIPPARAMBIL HOUSE, PALLIPPURAM (P.O),  
CHERTHALA, ALAPPUZHA DISTRICT, PIN 688 541. 2 DON GEORGE,  
(MINOR), AGED 14 YEARS S/O.JISHA THOMAS,

PUTHENKOYIPPARAMBIL HOUSE, PALLIPPURAM (P.O),  
CHERTHALA, ALAPPUZHA DISRICT, PIN 688 541. 3 BEN GEORGE  
(MINOR), AGED 12 YEARS S/O. JISHA THOMAS,  
PUTHENKOYIPPARAMBIL HOUSE, PALLIPPURAM (P.O),  
CHERTHALA, ALAPPUZHA DISTRICT, PIN 688 541 (MINOR  
PETITIONERS 2 AND 3 ARE REPRESENTED BY THEIR MOTHER,  
THE 1ST PETITIONER).

BY ADVS. GOPAKUMAR R.THALIYAL T.S.RAJASENAN  
N.P.PRAJEESH RESPONDENT/RESPONDENT: 1 GEORGE THOMAS,  
AGED 43 YEARS, S/O. LATE K.V. THOMAS, MOTOR VEHICLE  
INSPECTOR, REGIONAL TRANSPORT OFFICE, VADAKARA,  
KOZHIKODE DISTRICT, PIN 673 104, NOW RESIDING AT HOUSE  
NO. 13/422-C, THOKKANDIYIL HOUSE, CHORODE (P.O),  
VADAKARA, KOZHIKODE DISTRICT, PIN 673 106.  
OP(Crl.)Nos.439/2021 & 468/2021 2 BY ADVS. SEBASTIAN  
CHAMPAPPILLY ABRAHAM P.MEACHINKARA GEORGE CLEETUS  
MARGARET MAUREEN DROSE THOMAS GEORGE THIS OP  
(CRIMINAL) HAVING COME UP FOR ADMISSION ON 12.01.2022,  
ALONG WITH OP(Crl.).468/2021, THE COURT ON THE SAME DAY  
DELIVERED THE FOLLOWING: OP(Crl.)Nos.439/2021 & 468/2021 3

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH  
WEDNESDAY, THE 18TH DAY OF JANUARY 2022 / 22ND POUSHA,  
1943 OP(CRL.) NO. 468 OF 2021 AGAINST THE ORDER IN CRL.M.P  
240/2019 IN MC 117/2019 OF FAMILY COURT, ALAPPUZHA  
PETITIONERS/RESPONDENT: GEORGE THOMAS, AGED 43 YEARS  
S/O.K. V. THOMAS, KONTHYRA MADATHIL HOUSE,  
THAIKKATTUKARA P.O., ALUVA, ERNAKULAM DISTRICT 683 106,  
THANKAMANI P.O. IDUKKI . BY ADVS. SEBASTIAN CHAMPAPPILLY  
ABRAHAM P.MEACHINKARA GEORGE CLEETUS MARGARET  
MAUREEN DROSE THOMAS GEORGE

## RESPONDENTS/PETITIONERS:

1 JISHA THOMAS, AGED 40 YEARS D/O. THANKAMMA THOMAS, PUTHENKOYIPPARAMBIL HOUSE, PALLIPPURAM P.O., CHERTHALA, ALAPPUZHA DISTRICT 688 541. 2 DON GEORGE (MINOR), AGED 13 YEARS REP. BY JISHA THOMAS, PUTHENKOYIPPARAMBIL HOUSE, PALLIPPURAM P.O., CHERTHALA, ALAPPUZHA DISTRICT 688 541. 3 BEN GEORGE (MINOR), AGED 11 YEARS REP. BY JISHA THOMAS, PUTHENKOYIPPARAMBIL HOUSE, PALLIPPURAM P.O., CHERTHALA, ALAPPUZHA DISTRICT 688 541. (MINOR RESPONDENTS 2 AND 3 ARE REPRESENTED BY THEIR MOTHER, THE 1ST RESPONDENT IN THE FAMILY COURT AT ALAPPUZHA).

OP(Crl.)Nos.439/2021 & 468/2021 4 BY ADV GOPAKUMAR R.THALIYAL THIS OP (CRIMINAL) HAVING COME UP FOR ADMISSION ON 12.01.2022, ALONG WITH OP(Crl.).439/2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: OP(Crl.)Nos.439/2021 & 468/2021 5

## JUDGMENT

[OP(Crl.) Nos.439/2021, 468/2021] Both these Original Petitions are filed challenging the interim

### **order of maintenance passed by the Family Court, Alappuzha in**

Crl.M.P No.240/2019 in M.C.No.117/2019.

2. The wife and children filed an application for

maintenance invoking Section 125 of Cr.P.C against the husband as M.C.No.117/2019, which is still pending. Both counsel submit that the pleadings are over and the M.C itself is ripe for trial.

### **3. The Family Court, Alappuzha passed the impugned order**

on 4.10.2021 by which the husband was directed to pay the interim maintenance at the rate of Rs.5,000/- each to the children.

4. The husband challenged the impugned order on the ground that it was passed without taking into account the income

**and assets of the wife. The wife challenged the impugned order**

dissatisfied with the rejection of interim maintenance to her and also dissatisfied with the quantum of maintenance awarded to the OP(Crl.)Nos.439/2021 & 468/2021 6 children.

5. The M.C is of the year 2019. It is ripe for trial. The

question whether the wife is entitled to interim maintenance and also the question of inadequacy of interim maintenance awarded to the children cannot be adjudicated in these Original Petitions filed under Article 227 of the Constitution of India. Hence, I am of the view that both these Original Petitions can be disposed of with a direction to the Family Court, Alappuzha to dispose of M.C itself as expeditiously as possible, at any rate, within a period of six months from the date of receipt of a copy of this judgment. Till the disposal of M.C, the husband shall continue to pay the maintenance awarded in the impugned order without failure. He shall also pay the arrears within a period of two months. These Original Petitions are disposed of as above. Sd/- DR. KAUSER EDAPPAGATH JUDGE ab OP(Crl.)Nos.439/2021 & 468/2021 7 APPENDIX OF OP(CRL.) 468/2021 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF M.C. NO. 117 OF 2019 DATED 18.10.2019 ON THE FILE OF THE FAMILY COURT ALAPPUZHA. Exhibit P2 TRUE COPY OF CRL.M.P. O. 240 OF 2019 IN M.C. NO. 117 OF 2019 DATED 18.10.2019 ON THE FILE OF THE FAMILY COURT ALAPPUZHA. Exhibit P3 TRUE COPY OF THE OBJECTION FILED BY THE

PETITIONER AS RESPONDENT IN CRL. M.P. NO. 240 OF 2019 IN M.C. NO. 117 OF 2019 DATED 10.01.2020 ON THE FILE OF THE FAMILY COURT ALAPPUZHA.

Exhibit P4 TRUE COPY OF THE ORDER IN CRL.M.P. NO. 240 OF 2019 IN M.C. NO. 117 OF 2019 DATED 9.12.2020. Exhibit P5 TRUE COPY OF THE COUNTER AFFIDAVIT WITHOUT EXHIBITS FILED BY THE PETITIONER AS RESPONDENT IN O.P. CRL. NO. 34 OF 2021 DATED 7.2.2021. Exhibit P6 TRUE COPY OF THE AFFIDAVIT OF DISCLOSURE OF ASSETS AND LIABILITIES FILED BY THE PETITIONER DATED 18.08.2021. Exhibit P7 TRUE COPY OF THE UNDATED AFFIDAVIT OF DISCLOSURE OF ASSETS AND LIABILITIES FILED BY THE 1ST RESPONDENT AS PETITIONER. Exhibit P8 TRUE COPY OF THE INTERROGATORIES FILED BY THE PETITIONER. Exhibit P9 TRUE COPY OF THE OBJECTIONS FILED BY THE RESPONDENTS. Exhibit P10 TRUE COPY OF THE ORDER DATED 04.10.2021 OF THE FAMILY COURT ALAPPUZHA IN CRIMINAL M.P. NO. 240 OF 2019 IN M.C. NO. 117 OF 2019. RESPONDENT EXHIBITS: NIL OP(Crl.)Nos.439/2021 & 468/2021 8 APPENDIX OF OP(CRL.) 439/2021 PETITIONER EXHIBITS Exhibit P1 TRUE COPY OF THE PETITION IN M.C. NO. THE FAMILY COURT, ALAPPUZHA. Exhibit P2 TRUE COPY OF THE AFFIDAVIT AND PETITION DATED 18.10.2019 IN C.M.P. NO. 240/2019 IN M.C. NO. 117/2019 Exhibit P3 TRUE COPY OF THE OBJECTION DATED 09.01.2020 FILED BY THE RESPONDENT. Exhibit P4 TRUE COPY OF THE ORDER DATED 09.12.2020 PASSED BY THE FAMILY COURT, ALAPPUZHA G.M.P. NO. 240/2019 IN M.C. NO. 117/2019. Exhibit P5 TRUE COPY OF THE JUDGMENT PASSED BY THIS HON'BLE COURT IN O.P. (CRL) NO. 34/29021 DATED 15.07.2021. Exhibit P6 TRUE COPY OF THE AFFIDAVIT DATED 09.04.2021 FILED BY THE 1ST PETITIONER. Exhibit P7 TRUE COPY OF THE AFFIDAVIT DATED 18.08.2021 FILED BY THE RESPONDENT. Exhibit P8 TRUE COPY OF THE ORDER DATED 04.10. 2021

PASSED BY THE FAMILY COURT, ALAPPUZHA C.M.P. NO. 240/2019 IN M.C. NO. 117/2019 IN M.C. NO. 117/2019. Exhibit P9 TRUE COPY OF THE SAID AFFIDAVIT DATED 08.09.2021. Exhibit P10 TRUE COPY OF THE ORDER DATED 10.10.2019 IN I.A. NO. 5483/2019 IN I.A. NO. THE FAMILY COURT, ERNAKULAM. RESPONDENTS ANNEXURES: NIL