

Praise Mon vs Rinu Jose,

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SooperKanoon Citation : sooperkanoon.com/1609987

Court : Kerala

Decided On : Apr-07-2021

Judge : Honourable Mr. Justice a.Muhamed Mustaque,Honourable Dr. Justice Kauser Edappagath

Appeal No. : OP (FC)/142/2021

Appellant : Praise Mon

Respondent : Rinu Jose,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE & THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH WEDNESDAY, THE 07TH DAY OF APRIL 2021 / 17TH CHAITHRA, 1943 OP (FC).No.142 OF 2021 AGAINST THE ORDER IN IA 1/2021 IN OP 120/2018 DATED 28-01-2021 OF FAMILY COURT, KALPETTA, WAYANAD PETITIONER/PETITIONER: PRAISE MON AGED 35 YEARS S/O. PAILY, PULIKKAL HOUSE, RAJAKUMARI POST, UDUMBANCHOLA, IDUKKI. BY ADVS. SRI.JIKKU SEBAN GEORGE SMT.DEEPTI SUSAN GEORGE SHRI.P.D.SAJI RESPONDENT/RESPONDENT: RINU JOSE, W/O. PRAISE MON,

MANKUDI HOUSE, BOOTHANAM COLONY, PULPALLY, WAYANAD DISTRICT - 673579. R1 BY ADV. SRI.P.MOHAMED SABAH R1 BY ADV. SMT.SAIPOOJA THIS OP (FAMILY COURT) HAVING BEEN FINALLY HEARD ON 7-042021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -:2:-

J U D G M E N T

Dated this the 7th day of April, 2021

Dr.Kauser Edappagath, J.

Ext.P7 order passed by the court below dismissing a petition (Ext.P6) filed by the petitioner seeking to withdraw the Original Petition with liberty to file fresh petition invoking Order XXIII Rule 3 of CPC is under challenge in this original petition.

2. The petitioner and the respondent are husband and

wife. The petitioner filed original petition seeking divorce before the court below on the ground of cruelty. The respondent entered appearance and filed counter statement. During the pendency of the original petition, the petitioner preferred Ext.P6 petition before the court below seeking to withdraw the original petition with liberty to file a fresh petition. It was alleged that since the institution of the original petition in 2017, there has been change of circumstances and that further cause of action has arisen. The respondent opposed the said petition. The court below after hearing both sides passed the impugned order dismissing the

petition. The said order has been challenged in this original -:3:- petition.

3. We heard both sides.

4. The dissolution of marriage has been sought on the ground of cruelty. The various acts of cruelties have been stated

in the original petition. It is specifically alleged that the respondent left the matrimonial home on 5/7/2016 and thereafter she did not come back. The original

-:4:-

In the result, original petition is allowed. Ext.P7 is set aside. Ext.P6 stands allowed. Sd/- A.MUHAMED MUSTAQUE JUDGE Sd/- DR. KAUSER EDAPPAGATH Rp JUDGE -:5:- APPENDIX PETITIONER'S EXHIBITS:

EXHIBIT P1 TRUE COPY OF THE JUDGMENT IN WP(CRL)EXHIBIT
FROM THE E COURTS- OFFICIAL WEBSITE OF THE DISTRICT COURT.
EXHIBIT P6 CERTIFIED COPY OF THE INTERLOCUTORY APPLICATION, I.A
NO.1/2021 DATED 23.11.2020. EXHIBIT P7 CERTIFIED COPY OF THE ORDER
DATED 28.01.2021 IN IA NO.1/2021 IN OP

