

IN THE COURT OF ADDITIONAL SESSIONS JUDGE, -V, KOLLAM

Present : Smt. Sherly Deth.P, B.Sc LL.B., Addl. Sessions Judge-V, Kollam

On Friday 13th day of January, 2017 /23rd day of Pousha 1938 .

Criminal Appeal No.227/2015

(Crl.M.PNo.9442/2015 in M.C.No.95/2015 of the Judicial First Class Magistrate Court-III, Punalur)

From which court the

the appeal is preferred : The Judicial First Class Magistrate Court-III,
Punalur

Number of case in that

Court : Crl.M.PNo.9442/2015 in M.C.No.95/2015

Number of Appeal : Crl. Appeal No.227/2015

Name and description

of appellant : Siddik, aged 34 years, S/o.Muhammed
Haneefa, Kooramkode, Kunnikode.P.O,
Vilakkudy Village, Pathanapuram Taluk.

Name & description

of the respondent : 1. State of Kerala, Represented by
the Addl.Public Prosecutor, Kollam.
2. Aneesa, aged 30 years,
D/o.Rehumunisa, Vengavila Puthen
Veedu, Pathirikal.P.O, Pathanapuram
Village, Pathanapuram Taluk.

The Sentence and law

under which it was

imposed in the

the lower court : 1) The respondent shall not physically,
verbally or emotionally abuse the petitioner.
2) The respondent is restrained from entering the family residence
of the petitioner in which she and her minor child resides
(Vengavila Puthen Veedu, Nadumuripu, Pathirikkal.P.O,
Pathanapuram Village.
3) The respondent shall not forcefully take away the minor child,
Salman from the custody of the petitioner until further orders.

Whether Confirmed / Modified/

reversed and if modified, the modification : This matter is remanded back to
the Judicial First Class Magistrate Court-III, Punalur, to pass
final order in the M.C after affording opportunity to both
parties to adduce evidence. But the lower court shall pass
final order in this matter within 3 months from the date of
receipt of this judgment.

Date on which

Presentation	Filing	Notice issued by Court to appear	Bail bond of appellant has been let out on bail	Appellant ordered to appear	Hearing	Order
1	2	3	4	5	6	7
16.12.2015	16.12.15	16.12.15	--	30.01.16	13/01/17	13/01/17

This Criminal Appeal coming on for hearing before me on 13.01.2017 in the presence of Adv. Sri.Jolly Alex for the appellant and Adv. Sri. Muhammed Azim, Addl.Public Prosecutor for the respondents and upon perusing the appeal memorandum and records of the evidence and proceedings and upon duly considering the same after hearing, I do adjudge and passed the following.

Judgment

Appellant is the respondent in MC 95/2015 filed before the Judicial First Class Magistrate Court-III, Punalur u/s.12 of the Protection of Women from Domestic Violence Act, by the present respondent. Along with the Main petition; the petitioner therein filed CrI.M.P. 9442/2015 for protection order and residence order. In that petition exparte interim order was passed by the lower court and that order is challenged by the respondent therein by preferring this appeal.

2. For the sake of convenience the parties will be referred as in the M.C. Petition.

3. Now the respondent as appellant contended that the child was forcefully taken from his custody and now the child is in the custody of the petitioner's parents and the petitioner is not in station.

4. The petitioner filed vakalath in this appeal through counsel. For a mediation, though the court directed the petitioner/respondent to appear before court, she did not appear and her counsel reported that now she is working at Chennai. Thereafter though the case was adjourned for hearing, the petitioner's

counsel did not turn up for arguing the case. Therefore this court is in dark with respect to the present custody of the child.

5. The lower court already passed an exparte interim order against the respondent. To pass a final order, evidence is required in this case. Hence I think it is just and proper to remand this matter to the lower court for passing final order in the M.C after affording opportunity to both parties to adduce evidence, within a specified period.

In the result this matter is remanded back to the Judicial First Class Magistrate Court-III, Punalur, to pass final order in the M.C after affording opportunity to both parties to adduce evidence. But the lower court shall pass final order in this matter within 3 months from the date of receipt of this judgment.

The case records shall be forwarded to the lower court within two weeks.

Pronounced in open court on this the 13th day of January, 2017.

Sd/-

Sherly Deth.P,
Vth Addl. Sessions Judge.

Appendix:- NIL

Id/-

Addl. Sessions Judge – V

Typed by: Pradeep.G
Compared by:

Copy of Judgment in
Criminal Appeal No.227/15
Dated:13.01.2017

