

ORDER

This Criminal Appeal is preferred against the order of the Judicial Magistrate of 1st Class-II, Haripad in CMP 41/2024 in MC 5/2024.

2. The effect of the order is conditionally stayed by the learned Vacation Judge (Additional Sessions Judge-III, Alappuzha). In the meanwhile, the respondent filed a petition before the learned Magistrate with a prayer to strike off the contentions of the appellants. The appellants pointed out the pendency of the appeal, but the learned Magistrate is not ready to allow further time till the decision of this Court comes.

3. The first appellant is a severe patient, under treatment at Amritha Hospital, Ernakulam. His two children are studying. He is only a last grade employee. The mother/respondent is residing in his house. He has to meet the expenses such as electricity charges, water charges, etc. So, he prayed for staying the entire proceedings of the trial Court.

4. Heard both sides.

5. It is not in dispute that there is an interim order, thereby, the order of the learned Magistrate directing to pay maintenance @₹20,000/- was stayed, but it was clarified that an amount of ₹10,000/- is to be paid every month as interim

maintenance. The respondent would contend that even after the said order also, no amount is paid. That is why, she has approached the learned Magistrate for striking off the pleadings due to the non-compliance of the interim order.

6. It is true that the interim order passed by learned Predecessor-in-office, directing to pay half of the maintenance amount is not seen complied with so far. The first appellant is lamenting about the fact that he is only a last grade employee and is unable to pay this much amount. But, it is to be noted that the respondent has to be survived. A person who is not complying with the orders of the Court cannot seek indulgence of the Court. The appellant is not ready to say how much he is ready to pay. Without even paying a single pie, he is seeking a blanket order of stay of the order of the learned Magistrate. That cannot be supported and appreciated.

7. As the order is passed by a Court of competent jurisdiction and which was passed as per the request of the appellants, the first appellant is duty bound to comply the same. Any how, considering the age of the respondent and the grievance of the petitioner that he has to maintain his two children and he is having severe ailments, I am of the view that at least a sum of ₹7,000/- is to be paid by the first petitioner to

the respondent every month. He has to pay the arrears also. If the amount is paid within two months, the order going to be passed to strike off the pleadings is to be stayed.

8. So, in the light of the said fact, I find that the first petitioner/appellant has to pay ₹7,000/- to the respondent per month. As he has not paid any amount, as ordered, he is liable to pay the arrears also. If he has paid the amount within two months, the order, of striking off defence going to be passed by the learned Magistrate will stand stayed.

With these observations, this petition is partly allowed.

(Dictated to the Confidential Assistant transcribed and typed by her, corrected by me and pronounced in open court on this the 7th day of November, 2025).

Sd/-
V.G. Sreedevi
Additional Sessions Judge-I

Appendix :Nil

Id/-
Additional Sessions Judge-I