

**IN THE COURT OF ADDL. SESSIONS JUDGE-II (SPECIAL) KOTTAYAM**

Present :Sri. Subash.S, Addl. Sessions Judge-II (Special), Kottayam.

**Tuesday, the 31<sup>st</sup> day of March, 2026.**  
10<sup>th</sup> day of Chaithra, 1948.

**Criminal Appeal No.26/2024**

(Crl.M.P.No. 2594/2023 in M.,C.No.39/2022 of f Judicial First Class Magistrate Court-III, Kottayam)

**Appellant/Petitioners:-**

1. Nisha.K, Aged 38 years, W/o. Arun.K.M,  
Kavumgumpallil House, Aymanan.P.O,  
Aymanam Village, Kottayam District,  
686015 now residing at Gracy Bhavan,  
Nattaserry, S.H.Mount.P.O, Kottayam, 686006.
2. Minor
3. Minor

By Adv. Alex Thomas.

**Respondents/Respondents :-**

1. K.M.Arun, Aged 38 years, S/o. K.Muthaiya,  
Kavumgumpallil House, Aymanam.P.O,  
Aymanam Village, Kottayam Taluk, 686006.
2. K.Muthaiya, Aged 72, S/o. Kumaraswami,  
Kavumgumpallil House, Aymanam.P.O,  
Aymanam Village, Kottayam Taluk, 686006.
3. Leela, Aged 64, W/o.K.Muthaiya, Kavumgumpallil House,  
AymanamP.O, Aymanam Village, Kottayam Taluk,  
Kottayam, 686006.
4. K.M.Ajeesh, Aged 38 years, S/o. K. Muthaiya,  
Kavumgumpallil House, Aymanam.P.O,Aymanam Village,  
Kottayam Taluk, Kottayam, 686006.

5. K.M.Aneesh, Aged 41 years, S/o. K.Muthaiya,  
Kavungumpallil House, Aymanam.P.O,  
Aymanam Village, Kottayam Taluk, Kottayam, 686006.

R1,R2,R3 and R5 by Adv. Manu.Tom Thomas,  
Adv. Reena.G and Adv. Navya Maria.  
R4 No vakalath seen filed.

Offence : U/s. 23(2) of the Protection of Women  
from Domestic Violence Act.

Sentence / Petition is partly allowed.  
Order of Trial  
Court.

**Result of Appeal** :- Appeal is allowed in part and the order  
of the trial Court is modified.

This Criminal Appeal having been finally heard on  
05.03.2026 and the court on 31.03.2026 delivered the  
following :-

### **JUDGMENT**

The petitioners in C.M.P. 2594/2023 in M.C. 39/2022 on  
the file of the Judicial First Class Magistrate-III, Kottayam, are  
the appellants herein. The parties are referred to in their  
original status as in the trial court for convenience.

2. The brief facts leading to this appeal are as follows:-  
The 1<sup>st</sup> petitioner is the wife of 1<sup>st</sup> respondent. 2<sup>nd</sup> and 3<sup>rd</sup>  
petitioners are the children born out of their wedlock.  
Applicants filed the above MC No.39/2022 under section 12 of

the Protection of Women from Domestic Violence Act, seeking maintenance and other reliefs under the said Act. Thereafter, they filed CMP No.2594/2023 for an interim order directing the respondents to pay a sum of ₹3,28,491/-, which was incurred by the 1<sup>st</sup> applicant for medical and other related expenses, to pay a sum of ₹9,99,100/- which was balance amount of average monthly expenses incurred by the 1<sup>st</sup> petitioner for the last 3 years, and to provide a monthly maintenance of ₹56,500/- for herself and her minor children. According to the applicant, the 1<sup>st</sup> respondent is working abroad and earning a huge salary. 1<sup>st</sup> applicant is not employed as she has to take care of her children. In the circumstances, applicants filed the above petition for interim monthly maintenance of ₹56,500/- for the maintenance of the applicants and other monetary reliefs.

3. The 1<sup>st</sup> respondent filed counter affidavit contending as follows:

The claim in the interim application does not come under the purview of the Protection of Women from Domestic Violence Act. The claim of medical expenses is made, suppressing the amounts paid by the 1<sup>st</sup> respondent. The

amount already paid by the 1<sup>st</sup> respondent is much higher than the amount claimed to be expended by the petitioner. The 1<sup>st</sup> petitioner is a qualified and experienced nurse who was earning lakhs of rupees, and there are no compelling circumstances preventing her from going for a job either abroad or in Kottayam. The 1<sup>st</sup> petitioner, being the mother of the children, is equally duty-bound to maintain the children, and as such, she is not entitled to maintenance. The petitioner has savings of ₹65,00,000/- earned by her while she was working abroad, and she is getting more than Rs.35,000/- towards monthly interest. The 1<sup>st</sup> petitioner is residing at her paternal house, and she cannot claim any house rent expenses. The amount claimed towards expenses for food of the children, the conveyance expenses and special tuition expenses etc., are exorbitant and unsupported by any documents. Out of 109 medical bills produced by the 1<sup>st</sup> petitioner, 33 medical bills are duplicates. Apart from that, 5 of the bills produced are related to strangers. Moreover, the 1<sup>st</sup> petitioner has produced medical bills for which payment was made by the 1<sup>st</sup> respondent himself. The 1<sup>st</sup> respondent has never neglected the petitioner or the children. He is regularly paying ₹10,000/-

to the petitioner's account without fail. The 1<sup>st</sup> petitioner has suppressed all the above facts. The amount thus paid is sufficient to meet all the monthly expenses. The 1<sup>st</sup> respondent has to pay off the loan liabilities and other financial commitments, meet the expenses of his aged parents who are suffering from many illnesses, and meet the expenses of his food and accommodation abroad. In the circumstances, he is not in a position to spend more towards the maintenance. Till the 1<sup>st</sup> petitioner came back from Saudi Arabia, it was the respondents who took care of the children; even now, the respondents are ready and willing to take care of the children.

4. The learned Magistrate, after hearing both sides passed an order dated 10.01.2024 directing the respondent to pay his children (2<sup>nd</sup> and 3<sup>rd</sup> petitioners) an amount of ₹15,000/- per month towards medical and other expenses as maintenance. Being dissatisfied with the said order, the petitioners preferred this appeal.

5. Heard both sides.

6. The points that arise for determination in this appeal are as follows:

1. Whether the interim order passed by the trial court u/s 23 of the Protection of Women from Domestic Violence Act warrants any interference of this court?
2. Reliefs and costs?

7. **Point No. 1:** The applicants approached the Judicial First Class Magistrate Court-III, Kottayam, seeking relief under various provisions of the Protection of Women from Domestic Violence Act, 2005. After filing the above application under S.12 of the said Act, the applicants filed an application under S.23 of the said Act seeking an interim maintenance allowance and other interim monetary reliefs. The applicants claimed a total sum of ₹56,500/- towards their monthly maintenance, and they also claim other monetary reliefs. The learned Magistrate considered the growing age of the children and the fact that one child is suffering from autism and granted monthly maintenance at ₹15,000/- to both children. However, the learned Magistrate didn't grant maintenance to the 1<sup>st</sup> petitioner and other monetary reliefs claimed in the petition. I am of the view that the interim maintenance granted to the children is adequate, and I find no reason to interfere

with the order of the learned Magistrate in that regard. Now, the only aspect to be considered is whether the 1<sup>st</sup> petitioner is entitled to interim maintenance and whether the other monetary reliefs can be granted on an interim basis. According to the respondents, the 1<sup>st</sup> petitioner is a qualified and experienced nurse, and there are no compelling circumstances that prevent her from going for work either abroad or in Kottayam. The respondents contended further that the 1<sup>st</sup> petitioner has a savings of ₹65,00,000/- and she is receiving ₹35,000/- per month as interest on the said amount. Therefore, according to the respondents, the 1<sup>st</sup> petitioner is not entitled to get maintenance from the 1<sup>st</sup> respondent. Admittedly, the 1<sup>st</sup> petitioner is not employed at present, and according to the learned counsel for the petitioners, as the 1<sup>st</sup> petitioner has to take care of her children, she is not able to go for work. It is to be noted that the children are along with the 1<sup>st</sup> petitioner, and one of the children is suffering from autism and is undergoing continuous treatment at Amrutha Hospital, which necessarily requires the constant attention and care of the mother. In the circumstances, 1<sup>st</sup> petitioner cannot be compelled to go to work and earn income for her livelihood. On

the other hand, the 1<sup>st</sup> respondent is employed, and he has sufficient means to provide monthly maintenance to the 1<sup>st</sup> petitioner and her children. Considering all these factors, this court is of the view that the 1<sup>st</sup> petitioner is also entitled to the interim monthly maintenance and in the circumstances, the monthly maintenance payable to the 1<sup>st</sup> petitioner is to be fixed as ₹7,500/-. Therefore, the 1<sup>st</sup> respondent is liable to pay a monthly maintenance allowance of ₹15,000/- to both children and ₹7,500/- to the 1<sup>st</sup> petitioner. Regarding the other monetary reliefs, I am of the view that those monetary reliefs cannot be granted on an interim basis. Accordingly, the order of the learned Magistrate is liable to be modified, and the above point is answered accordingly.

8. **Point No. 2:** In the result, the above appeal is allowed in part, and the order of the trial court is modified as follows:

1. The 1<sup>st</sup> respondent is directed to pay a monthly maintenance allowance of ₹7,500/- (Rupees seven thousand five hundred only) to the 1<sup>st</sup> petitioner and ₹15,000/- (Rupees fifteen thousand only) to the 2<sup>nd</sup> and 3<sup>rd</sup> petitioners from the date of order in CMP No.2594/2023 in MC No.39/2022 ie., from

10.01.2024 till the disposal of the application u/s. 12 of the Protection of Women from Domestic Violence Act.

2. The said amount shall be paid on or before the 10<sup>th</sup> day of every month.
3. The arrears of maintenance, if any, shall be paid within three months from the date of this order.

*Dictated to the Confidential Assistant, transcribed and typed by her; revised and corrected by me and pronounced in open court, on this the 31<sup>st</sup> day of March, 2026.*

Sd/-  
**Subash. S**  
**Addl. Sessions Judge-II (Spl),**  
**Kottayam.**

**A P P E N D I X: N I L.**

Id/-  
**Addl. Sessions Judge -II (Spl.)**  
**Kottayam.**

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Compared.By: //True Copy//

Sd/-  
**Subash. S**  
**Addl. Sessions Judge-II (Spl),**  
**Kottayam.**