
(2011) 06 KL CK 0116

In the High Court Of Kerala

Case No : OP (Criminal) No. 1793 of 2011 (Q)

Prasannan

APPELLANT

Vs

Vijayamma

RESPONDENT

Date of Decision : 06-06-2011

Acts Referred:

Protection of Women From Domestic Violence Act, 2005 — Section 31

Citation : (2011) 06 KL CK 0116

Hon'ble Judges : Thomas P. Joseph, J

Bench : Single Bench

Advocate : K. Nandini, for the Appellant; No Appearance, for the Respondent

Judgement

Thomas P. Joseph, J.—Petitioners are Respondents in M.C. No. 117 of 2009 of the court of learned Judicial First Class Magistrate, Kayamkulam, a proceeding initiated by the Respondent under provisions of the Protection of Women from Domestic Violence Act (for short, "the Act"). Learned Magistrate passed Ext.P3, order on April 8, 2011 in the said proceeding directing Petitioners to give vacant possession of the house by name "Vrindhavanam" referred to in the said order to the Respondent within three weeks from the date of order. Learned Counsel submitted that challenging the said order Petitioners have filed Crl. Appeal No. 243 of 2011 before the learned Sessions Judge, Alappuzha. As it happened that the appeal was preferred after 18 days of prescribed time an application to condone the delay was preferred on which learned Sessions Judge has ordered notice. Since the delay is not condoned, learned Sessions Judge has not passed any order staying operation of Ext.P3, order. In the meantime, Respondent filed C.M.P. No. 3010 of 2011 u/s 31 of the Act before the learned Magistrate. Learned Magistrate posted that petition for appearance of Petitioners on 03.06.2011. It is submitted that on 04.06.2011 learned Magistrate passed an order directing Petitioners to vacate the house on 07.06.2011. It is the grievance of Petitioners that they have applied for a copy of the order (learned Counsel submitted that the application for copy of order dated 04.06.2011 was filed this day), but copy

of the order has not been issued and in the meantime the order dated 04.06.2011 on C.M.P. No. 3010 of 2011 is to be executed on 07.06.2011. Learned Counsel has submitted that Petitioners are staying in the house in question and they have no place to go. It is therefore, prayed that operation of Ext.P3, order may be stayed so that in the meantime, Petitioners could challenge the order on C.M.P. No. 3010 of 2011.

2. Having regard to the circumstances stated, I am inclined to direct that execution of the order on C.M.P. No. 3010 of 2011 shall be kept in abeyance for some time and in the meantime, copy of the order shall be issued to the Petitioners if it has already been applied for. At the same time I make it clear that the order passed by this Court will not stand in the way of Respondent also staying in the house in question without vacating Petitioners therefrom. In case Respondent also stays in the house in question it is directed that Petitioners shall not cause any hindrance to her or cause harassment to her.

Resultantly this petition is disposed of in the following lines:

i. Learned Judicial First Class Magistrate, Kayamkulam is directed to issue a copy of order dated 04.06.2011 on C.M.P. No. 3010 of 2011 in M.C. No. 117 of 2009 to the Petitioners as early as possible (if it has already been applied for) if necessary, giving it top priority.

ii. It is directed that operation of order dated 04.06.2011 on C.M.P. No. 3010 of 2011 in M.C. No. 117 of 2009 of the court of learned Judicial First Class Magistrate, Kayamkulam will stand in abeyance till the expiry of five days from the date notified for delivery of copy of the order on C.M.P. No. 3010 of 2011.

iii. It is made clear that this order keeping the order on C.M.P. No. 3010 of 2011 in abeyance will not prevent the Respondent also staying in the house in question. In that event, Petitioners are directed not to cause any hindrance for such stay of Respondent or, cause any harassment to her.