



2025:KER:17411

*Crl.R.P.Nos.1809/2014 & 501/2016*

-:1:-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE G.GIRISH

TUESDAY, THE 4<sup>TH</sup> DAY OF MARCH 2025 / 13TH PHALGUNA, 1946

CRL.REV.PET NO. 1809 OF 2014

AGAINST THE JUDGMENT DATED 05.07.2014 IN CRL.A NO.224 OF  
2012 OF ADDITIONAL SESSIONS COURT-I, KOTTAYAM

AGAINST THE ORDER IN MC NO.54 OF 2008 OF JUDICIAL MAGISTRATE  
OF FIRST CLASS , VAIKOM

PETITIONER/APPELLANT/RESPONDENT:

K.M.MATHEW  
KANDARAPPALLILAYA KALARIKKAL HOUSE,  
MEMURI KARA, MANJOOR VILLAGE,  
VAIKKOM TALUK

BY ADVS. S.RANJIT (K/250/1999)  
GOKUL DAS V.V.H.  
VINEETHA SUSAN ABRAHAM

RESPONDENTS/RESPONDENTS/PETITIONER:

- 1 JIJI MATHEW  
W/O.MATHEW, KANDARAPPALLILAYA KALARIKKAL HOUSE,  
MEMURI KARA, MANJOOR VILLAGE,  
VAIKKOM TALUK 686607
- 2 STATE OF KERALA  
REP BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,  
ERNAKULAM 682031

BY ADV SRI.NIREESH MATHEW  
SMT. SEETHA S., SR. PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION  
ON 27.02.2025, ALONG WITH CRL.REV.PET.501/2016, THE COURT ON  
04.03.2025 PASSED THE FOLLOWING:



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Crl.R.P.Nos.1809/2014 & 501/2016

-:2:-

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE G.GIRISH

TUESDAY, THE 4<sup>TH</sup> DAY OF MARCH 2025 / 13TH PHALGUNA, 1946

CRL.REV.PET NO. 501 OF 2016

AGAINST THE JUDGMENT DATED 05.07.2014 IN CRL.A NO.224 OF  
2012 OF ADDITIONAL DISTRICT COURT, KOTTAYAM

AGAINST THE ORDER DATED 10.07.2012 IN MC NO.54 OF 2008 OF  
JUDICIAL MAGISTRATE OF FIRST CLASS-I, VAIKOM

REVISION PETITIONER/1ST RESPONDENT/PETITIONER:

GIGI MATHEW  
W/O.MATHEW, KANDARAPALLILAYA,  
KALARICKAL HOUSE, MEMURI KARA,  
MANJOOR VILLAGE, VAIKOM TALUK.

BY ADV SRI.NIREESH MATHEW

RESPONDENTS/APELLANT/COMPLAINANT & STATE:

- 1 K.M.MATHEW  
KANDARAPALLILAYA KALARICKAL HOUSE,  
MEMURI KARA, MANJOOR VILLAGE,  
VAIKOM TALUK.
- 2 STATE OF KERALA  
REPRESENTED BY THE PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, ERNAKULAM.

BY ADVS.SRI.GOKUL DAS V.V.H.  
SRI.S.RANJIT KOTTAYAM  
SMT. SEETHA S., SR. PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION  
ON 27.02.2025, ALONG WITH CRL.REV.PET.1809/2014, THE COURT ON  
04.03.2025 PASSED THE FOLLOWING:



## **ORDER**

Both these petitions arose out of M.C.No.54/2008 on the files of the Judicial First Class Magistrate Court-I, Vaikom, a case under the Protection of Women from Domestic Violence Act, 2005 (*in short, 'Act'*). The parties are hereinafter referred in their capacities as the petitioner and respondent, respectively, as they figure in the petition filed before the learned Magistrate under Section 12 of the Act.

2. The petitioner, who is the divorced wife of the respondent, approached the learned Magistrate seeking various reliefs for herself and her three children, from the respondent. The respondent was admittedly working in the USA since 1984 as an Accountant in a transport company there. The petitioner, who was having employment as a Nurse in Bombay, is said to have abandoned the above job at the insistence of the respondent. Admittedly, the three children (an elder son and two younger daughters) of the petitioner and the respondent attained the age of majority during the pendency of the proceedings before the learned Magistrate.

3. Before the learned Magistrate, the petitioner and three witnesses were examined as PW1 to PW3 and six documents were



marked as Exts P1 to P6 from the part of the petitioner. The respondent was examined as CPW1 and 13 documents were marked as Exts D1 to D13. However, after the completion of evidence, it was submitted by the learned counsel for the petitioner that the petitioner is pressing only for the relief under Section 20 of the Act. A memo was filed before the Trial Court to that effect.

4. The learned Magistrate, after an evaluation of the aforesaid evidence, found that the petitioner was entitled for an amount of Rs.10,000/- per month for her maintenance, and accordingly, directed the respondent to pay such amount with effect from the date of petition. The aforesaid order dated 10.07.2012 in M.C.No.54/2008 was challenged in appeal by the respondent before the Sessions Court, Kottayam. The learned Additional Sessions Judge-I, Kottayam, after a re-appraisal of the entire evidence, came to the finding that the petitioner was entitled for maintenance at the rate of Rs.5,000/- per month only. It was observed by the learned Additional Sessions Judge in the judgment dated 05.07.2014 in Crl.A.No.224/2012 that the amount claimed by the petitioner was for herself as well as for the three children, and that the children could not claim any maintenance



under the Act, since they had attained the age of majority. It is upon the above reasoning that the learned Additional Sessions Judge reduced the maintenance amount awarded by the learned Magistrate to Rs.5,000/- per month.

5. Crl.R.P.No.1809/2014 is filed by the respondent challenging the aforesaid order of the learned Additional Sessions Judge, which directed him to pay maintenance at the rate of Rs.5,000/- per month to the petitioner. According to the respondent, the courts below went wrong in awarding maintenance to the petitioner in the absence of proof regarding domestic violence, and the capability of the respondent to pay any such amount to the petitioner.

6. In Crl.R.P.No.501/2016 the petitioner assailed the judgment of the learned Additional Sessions Judge reducing the maintenance amount, to which she is entitled to receive from the respondent, from Rs.10,000/- to Rs.5,000/-. According to the petitioner, the Appellate Court failed to take note of the standard of living of the petitioner and the respondent, and reduced the maintenance amount without any rationale.



7. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

8. The respondent challenges the maintenance awarded by the Appellate Court stating the reason that in the absence of proof of domestic violence, and also the means of the respondent to make payment of maintenance, the Appellate Court ought not have passed the order in that regard. The contention of the respondent in the above regard cannot be accepted, since the evidence on record clearly points to the domestic violence suffered by the petitioner, and also the capability of the respondent to make payment of maintenance to the petitioner. The Trial Court has rightly observed in the impugned order that the failure on the part of the respondent to provide maintenance to the petitioner itself amounts to economic abuse coming under the purview of domestic violence. That apart, it could be seen from the evidence adduced by the petitioner that she was compelled to abandon her job as a Nurse at Bombay as insisted by the respondent, and that was the reason why she had to depend on the respondent for her daily needs. The above aspect would show that the act of the respondent had resulted in deprivation of income for the petitioner, which



would come under the purview of economic abuse amounting to domestic violence. The contention of the respondent that he is not having the means to pay maintenance to the petitioner also cannot be accepted on face value. As already stated above, the respondent is a person who had worked in the USA as an Accountant in a transport company there for more than two decades. That apart, the petitioner has let in evidence that the respondent is having extensive landed property, which included certain land in the name of the petitioner remaining under his exclusive possession. Having regard to the above evidence on record, it is not possible to say that the respondent was not having the capability to make payment of maintenance at the rate of Rs.5,000/- per month to the petitioner as ordered by the Appellate Court.

9. As regards the challenge of the petitioner against the verdict of the Appellate Court, it has to be stated that the reasoning of the Appellate Court for reducing the maintenance amount from Rs.10,000/- per month to Rs.5,000/- per month cannot be faulted, in view of the nature of the evidence adduced by the petitioner. As rightly observed by the learned Additional Sessions Judge, the



petitioner had claimed the maintenance amount of Rs.15,000/- per month for herself as well as for her three children. The above aspect is further revealed from the proof affidavit filed by the petitioner before the Trial Court. The learned Magistrate, while fixing the monthly maintenance amount at Rs.10,000/-, has not made clear in the impugned judgment that it was so reduced from Rs.15,000/- to Rs.10,000/-, taking into account of the fact that the children who attained the age of majority are not entitled to claim maintenance. The aforesaid amount of Rs.10,000/- per month had been fixed by the learned Magistrate by simply observing that the respondent is liable to give a reasonable maintenance to the petitioner. Therefore, the finding of the Appellate Court, that the said amount is liable to be reduced in view of the fact that the children of the petitioner for whom also she had claimed maintenance, had attained the age of majority, and hence not entitled to claim maintenance under the Act, cannot be said to be wrong or irregular. In this context, it is not possible to ignore the fact that the respondent had produced the certified copies of three sale deeds which were marked as Exts D2 to D4 before the Trial Court to show that he had assigned some of the landed properties





in the name of the petitioner. It is true that the petitioner had taken up a contention that, though certain landed properties remained in her name, the said properties are under the possession and enjoyment of the respondent. Still, there is nothing which prevents the petitioner to take recourse to appropriate legal remedies to recover possession of those properties and to make use of the income from it for her daily needs. When viewed in the above perspective also, the direction of the Appellate Court reducing the maintenance amount to Rs.5,000/- per month, cannot be faulted.

10. The learned counsel for the petitioner argued that the amount of Rs.5,000/- per month could hardly meet the basic needs of the petitioner in view of the cost of living at present. It is not possible to accept the argument of the petitioner in the above regard since the said amount of Rs.5,000/- per month was ordered to be paid by the respondent from the date of petition which relates back to the year 2008. If the petitioner has got a case that the said amount ought to have been enhanced due to the rise of the cost of living in the subsequent years, she ought to have resorted to appropriate legal steps in that regard before the courts below. At any rate, the above



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aspect cannot be agitated in the present revision petition before this Court. As a conclusion to the above discussion, I find that there is absolutely no reason to interfere with the judgment rendered by the Additional Sessions Court-I, Kottayam, in Crl.A.No.224/2012.

In the result, both these petitions are hereby dismissed.

(Sd/-)

**G. GIRISH, JUDGE**

DST