

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

&

THE HONOURABLE MR. JUSTICE ASHOK MENON

FRIDAY, THE 29TH DAY OF DECEMBER 2017/8TH POUSHA, 1939

OP (FC).No. 724 of 2017 (R)  
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(AGAINST THE ORDER DT 6.12.2017 IN IA NO.6152/2017 IN IA NO.1582/2016  
IN OP NO.648/2014 ON THE FILE OF FAMILY COURT, THRISSUR)

PETITIONER(S) / (PETITIONER/RESPONDENT) :  
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RADHYA MARY PRIYASARSINI  
D/O K.J RAPHI, AGED 32, KANNAMPUZHA, PERINGAVU VILLAGE,  
KIZHAKKUMPATTUKARA DESOM, THRISSUR TALUK,  
THRISSUR EAST PO, THRISSUR DISTRICT.

BY ADVS.DR.V.N.SANKARJEE  
SRI.V.N.MADHUSUDANAN  
SRI.S.SIDHARDHAN  
SMT.R.UDAYA JYOTHI  
SRI.M.M.VINOD  
SMT.M.SUSEELA

RESPONDENT(S) / (RESPONDENT/PETITIONER) :  
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JOHN SIMIL K.A  
S/O K.G AUSUSTINE, AGED 38, KANDANAMPARAMBIL,  
ERAMALLOOR PO, EZHUPUNNA VILLAGE, ERAMALLOR DESOM,  
CHERTHALA TALUK, ALAPPUZHA DISTRICT.688537

R1 BY ADV. SRI.S.EASWARAN

THIS OP (FAMILY COURT) HAVING BEEN FINALLY HEARD ON 29-12-  
2017, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: TRUE COPY OF GOP NO.648/2014 DATED NIL ON THE FILE OF THE FAMILY COURT, THRISSUR.

EXT.P2: TRUE COPY OF THE PETITIONER'S OBJECTION IN GOP NO.648/2014 DATED NIL ON THE FILE OF THE FAMILY COURT, THRISSUR.

EXT.P3: TRUE COPY OF THE ORDER DATED 19.2.2015 IN GOP NO.648/2014.

EXT.P4: TRUE COPY OF THE REPORT DATED 26.1.2016 OF THE CHILD LINE, ALAPPUZHA SUBMITTED TO THE NODAL OFFICER, SPECIAL JUVENILE POLICE UNIT, ALAPPUZHA.

EXT.P5: TRUE COPY OF THE LETTER DATED 28.1.2016 OF THE DEPUTY POLICE SUPERINTENDENT, ALAPPUZHA ISSUED TO THE STATION HOUSE OFFICER, AROOR POLICE STATION.

EXT.P6: TRUE COPY OF THE FIRST INFORMATION REPORT IN CRIME NO.106/2016 OF AROOR POLICE STATION ACCOMPANIED WITH THE STATEMENT OF THE CHILD LINE WORKER AND THE STATEMENT IN WRITING OF THE MINOR GIRL.

EXT.P7: TRUE COPY OF THE PORTEST COMPLAINT AS CRL.M.P.NO.2598/2017 DATED 29.4.2017 BEFORE THE COURT OF SESSION/SPECIAL COURT POCSO ACT, ALAPPUZHA.

EXT.P8: TRUE COPY OF THE PETITION IA NO.1582/2016 IN GOP NO.648/2014 DATED NIL ON THE FILE OF THE FAMILY COURT, THRISSUR.

EXT.P9: TRUE COPY OF THE PETITIONER'S OBJECTION DATED 4.4.2016 IN IA NO.1582/2016 IN GOP NO.648/2014 ON THE FILE OF THE FAMILY COURT, THRISSUR.

EXT.P10: TRUE COPY OF THE ORDER DATED 5.6.2017 IN IA NO.1582/2016 IN GOP NO.648/2014 ON THE FILE OF THE FAMILY COURT, THRISSUR.

EXT.P11: TRUE COPY OF THE ORDER DATED 26.9.2017 IN IA NO.3703/2017 IN IA NO.1582/2016 IN GOP NO.648/2014 ON THE FILE OF THE FAMILY COURT.

EXT.P12: TRUE COPY OF THE EVENT PROSPECTUS CONTRACT DATED 17.11.2017 ISSUED FROM HOTEL POORAM INTERNATIONAL, THRISSUR.

EXT.P13: TRUE COPY OF THE PETITION DATED 22.11.2017 IA NO.6152/2017 IN IA NO.1582/2016 IN GOP NO.648/2014 ON THE FILE OF THE FAMILY COURT.

EXT.P14: TRUE COPY OF THE RESPONDENT'S OBJECTION DATED NIL IN IA NO.6152/2017 IN IA NO.1582/2016 IN GOP NO.648/2014 ON THE FILE OF THE FAMILY COURT.

EXT.P15: TRUE COPY OF THE ORDER DATED 6.12.2017 IN IA NO.6152/2017 IN IA NO.1582/2016 IN GOP NO.648/2014 ON THE FILE OF THE FAMILY COURT.

RESPONDENT'S EXHIBITS

EXT.R(a): COPY OF THE COMMON ORDER DATED 12.4.2016 IN EA NO.148/16 AND IA NO.1581/2016 IN OP 648/2014.

EXT.R(b): COPY OF THE JUDGMENT DATED 8.2.2017 IN OP(FC) NO.189/2016

EXT.R(c): COPY OF THE ORDER DATED 26.9.2017 IN IA NO.3703/2017 IN IA NO.1582/2016 IN GOP NO.648/2014.

EXT.R(d): COPY OF THE JUDGMENT DATED 24.11.2016 IN WPC NO.3459/2016.

EXT.R(e): COPY OF THE ORDER DATED 25.1.2017 IN CRIME NO.106/2016 BEFORE THE SESSIONS COURT, ALAPPUZHA.

EXT.R(f): COPY OF THE ORDER DATED 8/8/2017 CRL.M.P.NO.2598/2017 IN CRIME NO.106/2016 OF THE ADDITIONAL SESSION COURT-1, ALAPPUZHA.

EXT.R(g): COPY OF THE FIRST INFORMATION REPORT DATED 7.3.2017 OF THE AROOR POLICE STATION.

EXT.R(h): COPY OF THE EXTRACT OF THE FINAL REPORT FILED BEFORE JUDICIAL FIRST MAGISTRATE COURT-II, CHERTHALA.

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PS to Judge

Rp

**A.M. SHAFFIQUE & ASHOK MENON, JJ.**

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OP(FC) No.724 of 2017

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Dated this, the 29<sup>th</sup> day of December, 2017

## **J U D G M E N T**

### **Shaffique, J.**

Petitioner had approached this Court challenging Ext.P15 order dated 6/12/2017 in IA No.6152/17 in IA No.1582/2016 in OP No.648/2014 by which a request for giving interim custody of the minor child for a few hours on 31/12/2017 has been dismissed. Earlier, the Family Court had by order dated 5/6/2017 in IA No.1582/2016 granted visitation right to the petitioner herein to visit the child between 11.00 a.m to 1.00 p.m of the first and third Saturdays in the Family Court, Thrissur. Prior to the said order being passed, there were lot of issues between the couple. Petitioner had raised allegation against the respondent herein that the minor child was sexually abused by the father. This was found to be wrong after investigation and crime has been registered against the mother for giving false evidence to the police. Further,

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materials placed on record would show that the respondent herein was assaulted and the child was forcefully attempted to be taken away from the premises of the Court. It is also pointed out by the learned counsel for respondent that the uncle, whose marriage is fixed on 31/12/2017, is also an accused in a case.

2. The request of the petitioner for having custody of the minor child from 9.30 a.m to 3.00 p.m on 31/12/2017 is to attend the marriage of her brother.

3. Having regard to the fact that already appropriate orders had been passed taking into account all the factual circumstances as per order dated 5/6/2017 in IA No.1582/2016, we do not think that any further modification is required for the reason stated in the application for interim custody. No grounds have been made out warranting further orders to be passed.

OP(FC) is therefore dismissed.

Sd/-

**A.M. SHAFFIQUE, JUDGE**

Sd/-

**ASHOK MENON, JUDGE**

Rp

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PS to Judge