

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE MARY JOSEPH

MONDAY, THE 31<sup>ST</sup> DAY OF JANUARY 2022 / 11TH MAGHA, 1943

OP(CRL.) NO. 38 OF 2022

AGAINST THE ORDER DATED 25.10.2021 IN M.P.NO.629/2021 IN M.C.NO.198/2021

OF FAMILY COURT, ERNAKULAM

**PETITIONERS/PETITIONERS:**

1

2

**RESPONDENTS/STATE/RESPONDENT:**

1        STATE OF KERALA  
          REPRESENTED BY PUBLIC PROSECUTOR,  
          HIGH COURT OF KERALA, PIN - 682011

2

R1 BY SRI.ARAVIND V MATHEW

THIS OP (CRIMINAL) HAVING COME UP FOR ADMISSION ON 31.01.2022, THE COURT  
ON THE SAME DAY DELIVERED THE FOLLOWING:

## **JUDGMENT**

**Dated this the 31<sup>st</sup> day of January, 2022**

This Original Petition is filed under Article 227 of Constitution of India against an order passed by Family Court, Ernakulam (for short 'the court below') on 25.10.2021 in M.P.No.629/2021 in M.C.No.198/2021. The order assailed reads:

"Taken up today. For objection. Heard. Respondent is directed to pay Rs.6000/- as interim maintenance to the child till disposal of MC. Wife claim will be decided in the MC"

2. It is found from the impugned order that it was passed when M.P.No.629/2021 was posted for objection of the respondent. A direction is found issued to the respondent in the impugned order to pay Rs.6,000/- as interim maintenance allowance to the child till disposal of the MC but at the sametime the wife was denied any interim maintenance allowance without assigning any reasons.

3. What was the reason for declining to pass an order granting interim maintenance allowance to the wife was not revealed from the order extracted above. Therefore, the order is a non-speaking one. There is no hard and fact rule that all

claims of the parties must be allowed. But, the party has a right to be informed of the reasons for denial of his/her claim or for prolonging its consideration to a future date. Since such a reason is not stated in the impugned order, it is liable to fail.

In the above circumstances, without issuing notice to the 2<sup>nd</sup> respondent, this Court is constrained to allow the Original Petition in part and to pass an order setting aside the impugned order to the extent it directs adjudication of the wife's claim for interim maintenance allowance in the M.C. The direction to pay Rs.6,000/- as interim maintenance allowance to the child is not interfered with. The court below shall consider M.P.No.629/2021 with reference to the claim of the wife for interim maintenance allowance and shall pass appropriate orders (either declining or allowing the claim) stating sufficient and satisfactory reasons for doing so. The consideration of the claim of the wife and passing of orders shall not go beyond three weeks from this day.

Sd/-

**MARY JOSEPH  
JUDGE**

**APPENDIX OF OP(CRL.) 38/2022**

PETITIONER EXHIBITS:

|            |                                                                                                                                                                             |
|------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| EXHIBIT-P1 | TRUE COPY OF THE MC NO-198 OF 2021 DATED<br>16.08.2021 FILED BEFORE THE HONBLE FAMILY COURT<br>ERNAKULAM                                                                    |
| EXHIBIT-P2 | TRUE COPY OF THE INTERIM APPLICATION FOR<br>INTERIM MAINTENANCE AS MP NO-629 OF 2021 IN MC<br>NO-198 OF 2021 DATED 16.08.2021 FILED BEFORE<br>HONBLE FAMILY COURT ERNAKULAM |
| EXHIBIT-P3 | TRUE COPY OF THE ORDER IN MP NO-629 OF 2021 IN<br>MC NO-198 OF 2021 DATED 25.10.2021 OF THE<br>HONBLE FAMILY COURT ERNAKULAM                                                |

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P A TO JUDGE