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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE C.PRATHEEP KUMAR

TUESDAY, THE 14TH DAY OF OCTOBER 2025 / 22ND ASWINA, 1947

CON.CASE(C) NO. 2417 OF 2025

ARISING FROM THE ORDER DATED 30.07.2024 IN CRL.REV.PET
NO.319 OF 2023 OF HIGH COURT OF KERALA

PETITIONER/1ST RESPONDENT:

MINI K U
AGED 48 YEARS, WIFE OF JACOB MATHEW,
NOW RESIDING AT PLAPPARAMBIL HOUSE,
PUTHENCHANDA, VAKATHANAM.P.O,
KOTTAYAM., PIN - 686538

BY ADVS.
SHRI.LUKE J CHIRAYIL
SHRI.NAVANEETH KRISHNAN P.K.
SHRI.JACOB VICTOR
SMT.NEHA RAMAKRISHNAN
SHRI.VYSAKH C.S.
SHRI.ZAINUDHEEN P.

RESPONDENT/REVISION PETITIONER:

JACOB MATHEW
AGED 50 YEARS, SON OF P.K.MATHEW,
NOW RESIDING AT C/O. MARIAMMA VARKEY,
PLAPPARAMBIL HOUSE, PUTHENCHANDA,
VAKATHANAM.P.O, KOTTAYAM., PIN - 686538

BY ADV. SRI. P.T. DINESH

THIS CONTEMPT OF COURT CASE (CIVIL) HAVING COME UP FOR
ADMISSION ON 14.10.2025, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:



C.R.

J U D G M E N T

Dated this the 14th day of October, 2025

The 1st respondent in Criminal Revision Petition No.319/2023 filed this Contempt Petition under Section 11 and 12 of the Contempt of Courts Act, 1971 and Article 215 of the Constitution of India, praying for initiating contempt proceedings against the original petitioner in the Criminal Revision Petition on the ground that he willfully disobeyed the direction of this Court in the judgment dated 30.7.2024.

2. The petitioner herein filed M.C. No.2/2018 before the Judicial First Class Magistrate Court, Changanassery under Sections 19 and 20 of the Protection of Women from Domestic Violence Act, 2005. The Magistrate directed the respondent in the M.C. to pay a monthly maintenance of Rs.3,000/-. In appeal, the Additional Sessions Court-V, Kottayam enhanced the monthly maintenance to Rs.7,500/- In addition to the same, residence order was also granted by the Sessions Court. In Revision, this Court passed the following order:

“ Accordingly, this revision petition is allowed in part. The petitioner is ordered to pay Rs.3,000/- to the 1st respondent as



monthly rent for the alternative accommodation from the date of her vacating the shared household. The 1st respondent shall vacate the shared household within two months from today. The 1st respondent is entitled to get monthly maintenance at the rate of Rs.4,000/- from the petitioner from the date of filing of M.C.No.2/2018.”

3. The grievance of the petitioner is that the respondent failed to comply the above order passed by this Court for the past four months.

4. Now the point that arise for consideration is the following:

Whether for the non-payment of the amount ordered in the Criminal Revision Petition No.319/2023, the respondent can be booked for contempt?

5. Heard Sri.Luke J.Chirayil, the learned counsel for the petitioner and Sri. P.T. Dinesh, the learned counsel for the respondent.

6. The learned counsel for the respondent would argue that the remedy of the petitioner is to execute the order before the learned Magistrate and not to approach this Court by filing a contempt petition of the present nature. He has also relied upon the decisions of the Hon'ble Supreme Court in **R.N. Dey and Others v. Bhagyabati Pramanik and Others** [2000 KHC 1145], **Kapildeo Prasad Sah and Others v. State of Bihar and Others** [1999 KHC



1350] and a decision of Chhattisgarh High Court in **Itwar Singh v. Ganeshram and Another** [2015 KHC 2078].

7. In the decision in **R.N. Dey** (supra), in paragraph 7, the Apex Court held that:

“We may reiterate that the weapon of contempt is not to be used in abundance or misused. Normally, it cannot be used for execution of the decree or implementation of an order for which alternative remedy in law is provided for. Discretion given to the court is to be exercised for maintenance of the court's dignity and majesty of law. Further, an aggrieved party has no right to insist that the court should exercise such jurisdiction as contempt is between a contemner and the court.”

8. In the decision in **Kapildeo Prasad Sah** (supra) in paragraph 9, the Apex Court held that:

“For holding the respondents to have committed contempt, civil contempt at that, it has to be shown that there has been wilful disobedience of the judgment or order of the court. Power to punish for contempt is to be resorted to when there is clear violation of the court's order. Since notice of contempt and punishment for contempt is of far reaching consequence, these powers should be invoked only when a clear case of wilful disobedience of the court's order has been made out.”



In the above decision, the Apex Court clarified that initiation of contempt proceedings is not a substitute for execution proceedings, though at times, that purpose may also be achieved.

9. In the decision in **Itwar Singh** (supra), the contempt petition was moved alleging violation of a decree of injunction. After referring to various decisions, the Chhattisgarh High Court held in paragraph 14 as follows:

“14 Bearing in mind the principles of law laid down by their Lordships of the Supreme Court in above - stated cases (supra) particularly case of Kanwar Singh (supra), in which it has been clearly held that execution of injunction decree is to be made in a manner prescribed under O.21 R.32 of the Code of Civil Procedure. The contempt jurisdiction is not substitute of the execution proceeding and remedy of the decree holder of injunction decree is to levy execution for injunction decree as he has the effective alternative remedy in law. Turning attention to the factual score of the case, if the respondents/contemnors have violated the injunction decree. the remedy of the applicant is to proceed in accordance with O.21 R.32 of the Code of Civil Procedure by levying execution as such, the contempt petition as framed and filed cannot be entertained for alleged violation of injunction decree dated 02/02/2007 being inexpedient in law.”



10. In the instant case, it is alleged that the respondent failed to pay the amounts including maintenance awarded by the Magistrate as modified by this Court. There are specific provisions in the Protection of Women from Domestic Violence Act, 2005 for executing the orders passed under the above Act. Section 20(6) of the Protection of Women from Domestic Violence Act, reads as follows:

“20. Monetary reliefs.—xxx xxx xxx

(6) Upon the failure on the part of the respondent to make payment in terms of the order under sub-section (1), the Magistrate may direct the employer or a debtor of the respondent, to directly pay to the aggrieved person or to deposit with the Court a portion of the wages or salaries or debt due to or accrued to the credit of the respondent, which amount may be adjusted towards the monetary relief payable by the respondent.”

11. Section 28(1) reads as follows :

“28. Procedure – (1) *Save as otherwise provided in this Act, all proceedings under sections 12, 18, 19, 20, 21, 22 and 23 and offences under section 31 shall be governed by the provisions of the Code of Criminal Procedure, 1973 (2 of 1974).”*



12. In the decision in **Rajnesh v. Neha & Another (2021) 2 SCC 324**, with regard to the enforcement/execution of orders of maintenance the Hon'ble Supreme Court has held in paragraph 139 as follows :

“For enforcement/execution of orders of maintenance, it is directed that an order or decree of maintenance may be enforced under S.28A of the Hindu Marriage Act, 1956; S.20(6) of the D.V. Act; and S.128 of Cr.P.C., as may be applicable. The order of maintenance may be enforced as a money decree of a civil court as per the provisions of the CPC, more particularly S.51, S.55, S.58, S.60 r.w. Order XXI.”

13. In the decision in **Kanchan v. Vikramjeet Setiya, 2013 KHC 2115**, the Rajasthan High Court held that all the orders of monetary relief under the provisions of the DV Act shall be executed in the manner provided under Section 125 Cr.P.C, including sending the respondent to civil jail, if the amount cannot be recovered.

14. In the decision in **Manoj Pillai and Another v. Prasita Manoj Pillai, 2017 KHC 4902**, the Madhya Pradesh High Court while dealing with the execution of a monetary relief held in paragraph 11 as follows :-

“11. At the time of arguments, the learned counsel for the



applicants has contended as to how any order passed under the Act in the instant case will be executable in Dubai ? From the perusal of the application, it is evident that the non - applicant has sought mainly monetary reliefs against applicant No.1. The monetary relief has been defined in S.2(k) of the Act and such reliefs are to be granted by way of proceedings under S.12 and S.23 of the Act. The S.12 covers in its application all kinds of reliefs including monetary relief as well as protection order and compensation. In case of non - compliance of an order of monetary relief or compensation the aggrieved person has to apply to the jurisdictional Magistrate, who has passed the said order, for execution of the order as per the provisions of S.20 of the Act. The Magistrate may get the order executed in terms of sub-sections (4) and (6) of S.20 of the Act. S.28 of the Act lays down that the courts shall be governed by the general provisions of the Code of Criminal Procedure in relation to the proceedings under S.12, S.18, S.19, S.20, S.21, S.22 and S.23 as well as S.31 of the Act. Thus, in the present case the non - applicant may take recourse to provisions of "CHAPTER VII - A" of the Cr.P.C., to get the order executed in Dubai against applicant No.1."

15. Therefore, it is evident that in a case of the present nature the remedy is to execute the order as per the procedure established by law and not to move this Court by filing a contempt petition. Since the petitioner herein



has approached this Court directly by filing a contempt petition without resorting to any of the above remedies, this contempt petition is liable to be dismissed. Point answered accordingly.

16. In the result, this petition is dismissed with liberty to the petitioner to approach the appropriate court, for the execution of the order in her favour.

Sd/-
C. PRATHEEP KUMAR,
JUDGE

sou.



APPENDIX OF CON.CASE (C) 2417/2025

PETITIONER ANNEXURES

Annexure A1 CERTIFIED COPY OF THE ORDER DATED
30.07.2024 IN CRL.REV.PET. NO. 319
OF 2023 OF THE HONORABLE HIGH COURT
OF KERALA.