



OP (CRL.) NO. 101 OF 2022

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

THURSDAY, THE 29TH DAY OF MAY 2025 / 8TH JYAISHTA, 1947

OP (CRL.) NO. 101 OF 2022

AGAINST THE ORDER DATED 07.02.2022 IN MC NO.236 OF 2020 OF
THE FAMILY COURT, THALASSERY

PETITIONERS/PETITIONERS:

- 1 BINSI, W/O SANDEEP CHANDRAN,
AGED 34 YEARS, 2B NANDAGOKUL APARTMENTS,
KEEZHANTHIMUKKU, TIRUVANGAD, THALASSERY,
PIN - 670103
- 2 PARVATHI SANDEEP, D/O SANDEEP CHANDRAN,
AGED 6 YEARS, 2B NANDAGOKUL APARTMENTS,
KEEZHANTHIMUKKU, TIRUVANGAD, THALASSERY,
PIN - 670103 (REPRESENTED BY MOTHER AND GUARDIAN, BINSI
K, THE 1st PETITIONER)

BY ADVS.

K.MOHANAKANNAN

H.PRAVEEN (KOTTARAKARA)

RESPONDENT/RESPONDENT:

SANDEEP CHANDRAN, S/O CHANDRAN NAIR,
AGED 34 YEARS, GEETHANJALI, PARUMALA POST, THIRUVALLA,
PATHANAMTHITTA, PIN - 689626

BY ADV T.M. RAMAN KARTHA

THIS OP (CRIMINAL) HAVING BEEN FINALLY HEARD ON 29.05.2025,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



A. BADHARUDEEN, J

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O.P.(Crl) No. 101 of 2022

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Dated 29th day of May 2025

JUDGMENT

This Original Petition has been filed under Article 227 of the Constitution of India, challenging Ext.P3 and P8 interim orders passed in M.C. No. 236 of 2020 on the files of the Family Court, Thalassery. The petitioners herein are the petitioners in M.C. No. 236 of 2020, and the respondent is also the same.

2. Heard the learned counsel for the petitioners as well as the learned counsel for the respondent. Perused the orders impugned.



3. In this matter, the petitioners herein, who are the wife and minor child of the respondent, filed application for maintenance before the Family Court, Thalassery. During pendency of the proceedings, the court referred the parties for counselling. Then the counsellor reported some symptoms of mental health to the petitioners. Thereafter, the respondent filed C.M.P. No. 29 of 2022 to refer the petitioners herein for a medical checkup before the Medical Board, District Hospital, Kannur to ascertain their mental state. On hearing both sides, the Family Court passed Ext.P3 order directing the petitioners to undergo a medical check-up on 09.02.2022, and as per Ext.P13 order, the respondent was directed to arrange taxi for the petitioners to attend the medical board examination.



4. It is submitted by the learned counsel for the petitioners that in fact, in a petition filed for maintenance medical examination of the petitioners is unwarranted, and the consideration of the court is only whether the petitioners are having means of sustenance and the capability of the respondent to repay the same. Therefore, the orders are illegal and the same are liable to be set aside with direction to the Family Court to dispose of MC No. 236 of 2020 of the Family Court, Thalassery, on merits.

5. Per contra, it is submitted by the learned counsel for the respondent that since the counsellor reported mental issues, C.M.P. No. 29 of 2002 had been filed by the respondent. It is also submitted by the learned counsel for the respondent further that



the respondent is ready to take back the wife and the child and to maintain them, but they are not amenable for the same.

6. In this matter, the point to be considered is whether a medical examination of the petitioners, merely based on suspected symptoms of mental health issues, is necessary in a proceedings claiming maintenance?. In a proceedings for maintenance, the point of consideration is; whether the petitioners are having means of maintenance by themselves, and the respondent is having the legal obligation, capacity, and income to maintain the claimants. It is strange to note that the petitioners approached the family court claiming maintenance for their survival, alleging that they did not have any means of survival. In such a case, merely acting on the report of the counsellor, when a petition was filed by



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the respondent, the petitioners' medical board examination was ordered by the family court to ascertain their mental status. What is the purpose for getting such a report is not at all discernible. Even the respondent who resided along with the petitioners did not doubt the mental status of the petitioners before the counsellor's report. In a proceedings for maintenance, there is no purpose in referring the petitioners for assessing their mental status to decide the question of maintenance.

7. In such view of the matter, both these orders are found to be not necessary and are accordingly set aside, and this Original Petition stands allowed accordingly.

8. Since the MC has been pending for the last five years, there shall be a direction to the Family Court, Thalassery, to



expedite the disposal of MC on merits, at any rate, within a period of three months from the date of production of a copy of this judgment.

9. It is made clear that the Family Court can consider the willingness expressed by the respondent as submitted before this court by his counsel, regarding the reunion of the parties if both of them consent for the same.

Registry is directed to forward a copy of this judgment to the family court, Thalassery, for information and compliance.

Sd/-

A. BADHARUDEEN, JUDGE

RMV



APPENDIX OF OP(CRL.) 101/2022

PETITIONER EXHIBITS

- ExhibitP1 TRUE COPY OF THE MC NO.236/2020 OF FAMILY COURT, THALASSERI DATED 25-8-2020
- ExhibitP2 TRUE COPY OF THE COUNTER AFFIDAVIT FILED BY THE RESPONDENT IN MC 236/2020 OF FAMILY COURT, THALASSERY DATED 25-11-2020
- ExhibitP3 TRUE COPY OF THE AFFIDAVIT IN CMP 999/2021 IN MC NO.236/2020 OF FAMILY COURT, THALASSERI DATED 13-12-2021
- ExhibitP4 TRUE COPY OF THE IN COUNTER IN CMP 999/2021 IN MC NO.236/2020 OF FAMILY COURT, THALASSERI DATED 5-1-2022
- ExhibitP5 TRUE COPY OF AFFIDAVIT IN CMP 29/2022 IN MC NO.236/2020 OF FAMILY COURT, THALASSERI DATED 5-1- 2022
- ExhibitP6 TRUE COPY OF THE COUNTER STATEMENT IN CMP 29/2022 IN MC NO.236/2020 OF FAMILY COURT, THALASSERI DATED 10-1-2022
- Exhibitp7 TRUE COPY OF THE REPORT ALONG WITH A LETTER DATED 14-1-2022 OF THE JUDGE, FAMILY COURT, SENT TO THE SUPERINTENDENT, DISTRICT HOSPITAL, KANNUR
- ExhibitP8 TRUE COPY OF THE ORDER IN CMP 29/2022 IN MC 236/2021 OF FAMILY COURT, THALASSERY DATED 11-1- 2022
- ExhibitP9 TRUE COPY OF THE REPORT OBTAINED FROM THE CWC ALONG WITH COVERING LETTER DATED 31-1-2022 AND COMPLAINT
- ExhibitP10 TRUE COPY OF FIR IN CRIME NO.1170/2020 DATED 4-11-2020 OF THALASSERY POLICE STATION
- ExhibitP11 TRUE COPY OF CMP 80/2022 IN MC 236/2020 OF FAMILY COURT, THALASSERY DATED 19-1-2022
- ExhibitP12 TRUE COPY OF COUNTER FILED BY THE RESPONDENT IN MC 236/2020 OF FAMILY COURT, THALASSERY DATED 22-1-2022
- ExhibitP13 TRUE COPY OF THE ORDER DATED 7-2-2022 IN CMP



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Exhibitp14

TRUE COPY OF THE PETITION FILED BY THE
COUNSEL FOR THE RESPONDENT IN MC 236/2020 OF
THE FAMILY COURT, THALASSERY DATED 25-2-2022