

(2006) 12 KL CK 0065

High Court Of Kerala

Case No: Writ Petition (C) No"s. 18274 of 2006-A and 28076 of 2006-S

Bobby Paulose

APPELLANT

Vs

Ronja Mathew

RESPONDENT

Date of Decision: Dec. 7, 2006**Acts Referred:**

- Divorce Act, 1869 - Section 30, 36

Citation: (2007) 1 DMC 514**Hon'ble Judges:** M. Ramachandran, J; A.K. Basheer, J**Bench:** Division Bench**Advocate:** K. Ramakumar, for the Appellant; L. Gopalakrishnan Potti, for the Respondent**Final Decision:** Dismissed

Judgement

M. Ramachandran, J.

The above two writ petitions are disposed of by a common judgment. Interlocutory orders passed by the Family Court, Ernakulam have been subjected to challenge. I.A. No. 1508 of 2005 in O.P. No. 1308 of 2004 and I.A. No. 1507 of 2005 in O.P. No. 1309 of 2004, respectively Exts. P2 and P3 in W.P. (C) No. 18274 of 2006. They appear to be one and the same order. Certain remittances were ordered, as payable by the husband, who has the petitioner in O.P. Nos. 1308 and 1309 of 2004. The interlocutory applications had been filed u/s 36 of the Indian Divorce Act. We find that a realistic approach had been made by the Family Court, and interference at this stage is not called for.

2. At the time of admission of W.P. (C) No. 18274 of 2006, interim order had been passed, simultaneously taking notice of certain deposits made by the petitioner in connected pending matters. The apparent idea was that the wife is not put to prejudice, since the matter was being indefinitely adjourned because of the inconvenience of the husband. We direct that whatever payments made are liable to be adjusted appropriately when the matter is given final shape by the Family Court,

as the orders do not suffer from want of jurisdiction or any other grounds urged.

3. W.P. (C) No. 18274 of 2006 is, therefore, dismissed.

4. W.P. (C) No. 28076 of 2006 also is required to be dismissed, since we find that the contentions raised had already been dealt with in certain other proceedings. Ext. P 1 order had been passed by the Family Court on 25.1.2006, whereby monthly payment at the rate of Rs. 2.500 was directed to be paid to the wife from January, 2006 onwards. This order had been subjected to challenge, but the appeal filed against the said order had been dismissed by this Court in Mat. Appeal No. 57 of 2006, by judgment dated 22.3.2006. Thereafter, an affidavit has been filed pointing out that the wife had started earning and the order required to be subjected to appropriate modification, but the application as above had been rejected by Ext. P4 order dated 11.10.2006, by the Family Court, which is now challenged. The Family Court had held that the order had trappings of an order u/s 30 of the Divorce Act. The earlier order had been upheld in Mat. Appeal No. 57 of 2006 and it could have been modified by the Family Court exercising its powers, in a situation where the husband was highlighting change of circumstances.

5. Consequently, W.P.(C) No. 28076 of 2006 is also dismissed. There will be no order as to costs.