

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Present:

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

TUESDAY, THE 1ST DAY OF JUNE 2021 / 11TH JYAISHTA, 1943
WP(C) No.11316/2021 (S)

PETITIONER

**SUO MOTU PROCEEDINGS INITIATED BY THE HIGH COURT
IN THE MATTER OF EXTENSION OF ORDERS OF STAY GRANTED BY
THE HIGH COURT IN WP(C)NO.9400/2020(S) AND CUSTODY ORDERS
IN RESPECT OF CHILDREN ISSUED BY THE FAMILY COURTS, WHICH
ARE DUE TO EXPIRE OR COMMENCE DURING THE PERIOD OF
LOCKDOWN/COVID RESTRICTIONS.**

RESPONDENT/RESPONDENT IN WPC NO.9400/2020(S)

**STATE OF KERALA,
REPRESENTED BY ITS CHIEF SECRETARY,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN 695 001.**

**This Suo Motu writ petition again coming on for orders upon perusing the
petition, this Court's order dated 19/05/2021 and upon hearing the arguments of
SRI.K.GOPALAKRISHNA KURUP, ADVOCATE GENERAL, SRI.THOMAS ABRAHAM, PRESIDENT HIGH COURT
ADVOCATES' ASSOCIATION, SRI.GEORGE POONTHOTTAM (SENIOR ADVOCATE), ADVOCATE SRI.JAWAHAR
JOSE, AND ADVOCATE SRI.SANTHOSH MATHEW the court passed the following:**

P.T.O.

rs.

**S.MANIKUMAR, C.J.,
C.T.RAVIKUMAR, J.
&
SHAJI P. CHALY, J.**

W.P.(C) No.11316 of 2021

Dated this the 1st day of June, 2021

ORDER

S.MANIKUMAR, C.J.

On 19th May, 2021, we passed a detailed interim order, in the matter of all the proceedings before this Court, as well as in lower courts/Tribunals, and issued directions that, no coercive action be taken till 31.05.2021.

2. The said interim order expired and thus, this *suo motu* writ petition is listed today. Government have issued G.O.(Rt) No.444/2021/DMD dated 29th May, 2021, extending the lockdown in the State of Kerala from 31.05.2021 to 09.06.2021, subject to the conditions set out in the said Government Order.

3. As lockdown continues, the difficulty of the litigants/learned counsel to approach the courts also continue and, therefore, the need to extend the interim orders.

4. On this aspect, we have heard Mr. K. Gopalakrishna Kurup, learned Advocate General; Mr. George Poonthottam, learned Senior Counsel; Mr. Thomas Abraham, President of Kerala High Court

Advocates' Association; Mr. Jawahar Jose, learned counsel for some of the banks and Mr. Santhosh Mathew, learned counsel for other parties and representing members of the bar respectively.

5. Mr. George Poonthottam, learned Senior counsel, and Mr. Santhosh Mathew, learned counsel, submitted that there are matters in which, courts have granted interim orders on or before 09.04.2021. Due to lockdown, those matters could not be listed, and thus, the interim orders have to be extended. He also pointed out that similar is the case with the interim orders passed by the vacation courts. Learned counsel, therefore, prayed that the interim order granted on 19.05.2021 be extended to the abovesaid category of cases.

6. Inviting the attention of this Court to paragraphs 7, 8, 36 and 37 of the interim order dated 19th May, 2021, Mr. Jawahar Jose, learned counsel, submitted that there is misconception about the implementation of the interim orders, by the press. On the said aspect, it is clarified that pursuant to the directions of the Hon'ble Supreme Court, the High Power Committee constituted for the purpose has taken note of the gravity of the offences/exemptions to be granted for the purpose of grant of bail to under trial/remanded prisoners. In the said circumstances, we are of the view that there is no need to modify the interim orders granted on 19.05.2021, in respect of the said issue.

7. Inviting our attention to paragraph No.39 of the interim order dated 19.05.2021, Mr. K. Gopalakrishna Kurup, learned Advocate General, submitted that in the earlier order, interim stay granted was limited upto 31.05.2021 or till the end of the lockdown period by the Government, whichever is earlier. Now, the Government have issued G.O.(Rt) No.444/2021/DMD dated 29th May, 2021, extending the lockdown in the State of Kerala from 31.05.2021 to 09.06.2021. Therefore, this Court may consider modification of the interim order already granted to have parity with the orders passed now, extending the interim orders .

8. Considering the submission of the learned Advocate General, in the matter of interim bails, directed to be extended till 31.05.2021 or till the end of the lockdown period by the Government, whichever is earlier, taking note of the Government Order dated 29.05.2021, extending the lockdown in the State of Kerala from 31st May, 2021 to 9.6.2021, and considering the present pandemic situation, we hereby add that those interim orders covered under paragraph 39 would be extended upto 15.06.2021.

9. We are also in agreement with the abovesaid submission of Mr. George Poonthottam, learned Senior Counsel, and Mr. Santhosh Mathew, in the matter of interim orders granted before and during the vacation. Thus, in the abovesaid matters, wherever interim orders granted on 09.04.2021, the orders

in force as on the said day, and the interim orders granted during vacation and expiring in the interregnum, are extended upto 15.06.2021, subject to the respondents or the concerned, moving the courts for vacating the interim orders, if so advised till 16.05.2021.

10. While granting interim order on 19.05.2021, we have considered the difficulty in the matters arising out of the proceedings under Section 138 of the Negotiable Instruments Act, 1881, where interim directions are issued for appearance or payment of certain amounts due under cheques dishonoured. Today, we have also taken note of the fact that in cases arising out of the proceedings under Section 138, there can be final judgments, directing payment of amounts, within a prescribed period, and for appearance of the parties. In line with the earlier order, we make it clear that, in those cases also, there would be an interim order not to enforce the final judgment, wherever a revision petition/appeal could not be filed due to the lock down restrictions. On the aspect of limitation, parties will get protection under the orders of the Hon'ble Apex Court.

11. For the reasons aforesaid and having regard to the abovesaid submissions, the interim orders granted on 19.05.2021 are also extended till 15.06.2021.

12. Registry is directed to post this *suo motu* writ petition on 14.06.2021.
The Registry is also directed to issue a copy of this order today itself to all concerned on usual terms.

Sd/-
S. MANIKUMAR
CHIEF JUSTICE

Sd/-
C. T. RAVIKUMAR
JUDGE

Sd/-
SHAJI P. CHALY
JUDGE

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P.S. To Judge