

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

WEDNESDAY, THE 9TH DAY OF SEPTEMBER 2015/18TH BHADRA, 1937

RPFC.No. 51 of 2005 ()

AGAINST THE ORDER IN MC 241/2004 of FAMILY COURT, MALAPPURAM

REVISION PETITIONER/RESPONDENT:

SASIDHARAN T.P S/O. (LATE) PANHAN,
MANGALAM BHAVANAM, POST EANGAPPUZHA, KOZHIKODE TALUK
KOZHIKODE DISTRICT.

BY ADV. SRI.K.A.SALIL NARAYANAN

RESPONDENTS/PETITIONERS:

1. A.K.VIJAYAKUMARI, D/O.A.K.ARUMUGHAN,
ASARIKANDI HOUSE, CHERUVAYUR P.O., VAZHAKKAD
ERNAD TALUK, MALAPPURAM DISTRICT.
2. AYANA, MINOR, D/O.SASIDHARAN,
(2ND RESPONDENT MINOR IS REPRESENTED BY HER GUARDIAN,
MOTHER WHO IS THE 1ST RESPONDENT HEREIN.)

BY ADV. SRI.BABU S. NAIR

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD
ON 09-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

R.P.(F.C).No. 51 of 2005

Dated this the 9th day of September, 2015

ORDER

The revision petitioner is the respondent in MC 241/04 on the files of the Family Court, Manjeri. The revision petitioner was directed to pay Rs.750/- per month to the 1st respondent and Rs.600/- per month to the 2nd respondent towards maintenance by the court below under Section 125 Cr.PC. Aggrieved by the said order, this revision petition has been filed.

2. Heard both sides. It is contended by the 1st petitioner before the court below, who is the 1st respondent herein, that she was treated with cruelty by the revision petitioner and in the said circumstances, she was forced to leave the matrimonial home during August 1998. The 1st respondent herein is unable to maintain herself as she has no job. She is having a daughter, who is the 2nd respondent herein, born in the wedlock with the

revision petitioner. She has to maintain her child also. The revision petitioner is doing carpentry work and getting an amount of Rs.250/- as daily wages.

3. The revision petitioner, on the other hand, refuted the contention of the 1st respondent herein and contended that the 1st respondent had left the matrimonial home on her own volition and the revision petitioner is prepared to maintain her, if she is prepared to reside with him. It is further contended by the revision petitioner that the revision petitioner is not doing any carpentry work and that he is only a coolie worker, getting only a meagre income. In the said circumstances, he is not in a position to pay maintenance to the 1st respondent herein. It is further contended by the revision petitioner that the 1st respondent herein is working as a tailor, earning daily an amount of Rs.500/- and in the said circumstance also, he is not liable to maintain the 1st respondent.

4. The 1st respondent was examined as PW1 and the revision petitioner was examined as RW1. The court below

found that even though the revision petitioner contended that the 1st respondent herein had left the matrimonial home on her own volition, the evidence on record would show that she was forced to leave the company of the revision petitioner. Having gone through the relevant inputs, I do not find any reason to take a different view in this matter.

5. Though it was contended by the revision petitioner that the 1st respondent was working as a tailor, earning an amount of Rs.500/- per day, apart from the ipse dixit of RW1, there is no material before the court to indicate that the 1st respondent herein is having the job as a tailor. PW1 categorically stated that PW1 is not having the job as a tailor. There is no material before the court inconsistent with the evidence of PW1 that she is not having any job as a tailor. The court below after evaluating the evidence of PW1 and RW1, came to the conclusion that the 1st respondent herein is not having any avocation and she is unable to maintain herself.

6. As regards the income of the counter petitioner, the counter petitioner contended that he is a coolie worker earning only an amount of Rs.125/- per day. However, the evidence of PW1 would show that he is doing carpentry work earning an amount of Rs.250/- per day. In OP 288 of 2003, on the files of the court below, the respondent admitted when examined before that court that he was doing carpentry work. Considering the entire evidence of PW1 and RW1, the court below found that the revision petitioner was having the capacity to grant maintenance to the 1st respondent herein. After appreciating the evidence of PW1 and RW1, the court below correctly entered into a finding that the revision petitioner is liable to pay a maintenance at the rate of Rs.750/- per month to the 1st respondent herein and at the rate of Rs.600/- per month to the 2nd respondent. No circumstance has been brought to my notice to indicate that the finding of the court below is perverse or incorrect. Having gone through the relevant inputs, I am satisfied that the order impugned does not

suffer from any infirmity or incorrectness or illegality or impropriety, warranting interference by this Court.

In the result, this RP(FC) stands dismissed.

Sd/-
B.SUDHEENDRA KUMAR
JUDGE

sm/