

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.D.RAJAN

FRIDAY, THE 22ND DAY OF MAY 2015/1ST JYAISHTA, 1937

RPFC.No. 119 of 2009 ()

AGAINST THE ORDER IN C.M.P.NO. 112/2007 OF THE FAMILY COURT,
ALAPPUZHA DATED 17.01.2008 RENDERED IN COMMON ORDERS IN C.M.P.NO.45 OF
2006, C.M.P.NO.236 OF 2007, C.M.P.NO.71 OF 2008 AND C.M.P.NO..112 OF 2007 IN
M.C.NO.63 OF 2003 OF THE COURT OF JFCM-1, ALAPPUZHA

REVISION PETITIONER/PETITIONER:

SAJAN, S/O.ABDUL WAHAB,
'SAYAJAM', PUTHENPALAM, ANEDU
NEDUMANGAD, THIRUVANANTHAPURAM DISTRICT
REPRESENTED BY POWER OF ATTORNEY HOLDER, ABDUL WAHAB
ASHYANU, KAWADIAR PALACE, THIRUVANANTHAPURAM.

BY ADVS.SRI.P.VIJAYA BHANU (SR.)
SRI.VIPIN NARAYAN

RESPONDENT(S)/COUNTER PETITIONERS:

1. RAMSHA.M.R., D/O.MUHAMMED SHAHI,
JUMRADH-AL-USTHA, ALISSERY WARD, ALAPPUZHA
REPRESENTED BY POWER OF ATTORNEY
HOLDER RAMLATH BEEVI.M, D/O.MUHAMMED KUNJU
JUMRATH-AL-USTHA, ALISSERY WARD, ALAPPUZHA.
2. SARA SAJAN (MINOR) REPRESENTED BY
MOTHER RAMSHA.M.R., JUMRADH-AL-USTHA, ALISSERY WARD,
ALAPPUZHA, REPRESENTED BY POWER OF ATTORNEY
HOLDER RAMLATH BEEVI.M, D/O.MUHAMMED KUNJU,
JUMRATH-AL-USTHA, ALISSERY WARD,
ALAPPUZHA.

R1 & R2 BY ADV. SRI.P.CHANDRASEKHAR

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD ON 22-
05-2015, ALONG WITH RPFC. 120/2009 THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

RPFC.No. 119 of 2009 ()

APPENDIX

PETITIONER'S ANNEXURES:

A: TRUE COPY OF THE ORDER IN M.C.NO. 63 OF 2003 OF THE COURT OF
J.F.C.M.-1, ALAPPUZHA DATED 31.12.2004.

RESPONDENT'S ANNEXURES: NIL

//TRUE COPY//

P.A. TO JUDGE

STK

P.D. RAJAN, J.

R.P.(F.C) No.119 of 2009

&

R.P.(F.C) No.120 of 2009

Dated this the 22nd day of May, 2015

ORDER

These Revision Petitions are filed against the orders in C.M.P.No.45/2006, C.M.P.236/2007, C.M.P.No.71 of 2008 and C.M.P.112/2007 of the Family Court, Alappuzha in M.C.No.63/2003 of the Judicial First Class Magistrate Court, Alappuzha. R.P.(F.C.) No.119/09 was preferred against C.M.P. No.112/2007 and R.P.(F.C.) 120/09 was preferred against C.M.P.No.45/2006, C.M.P.236/2007, C.M.P.No.71 of 2008 of the Family Court, Alappuzha.

2. The revision petitioner was the respondent in M.C.63/2003 of the Judicial First Class Magistrate Court-I, Alappuzha, who filed C.M.P.No.45/2006, C.M.P.236/2007, C.M.P.No.71 of 2008 and C.M.P.112/2007 in M.C.63/03 before the Family Court, Alappuzha. The revision petitioner's case is that, as per order in M.C.63/2003 of Judicial First Class Magistrate Court, Alappuzha, he is bound to pay maintenance to his daughter at the rate of

₹.2500/- per month. The above M.C. was filed by the mother of the minor, who is the first respondent herein. The marriage between the revision petitioner and first respondent was solemnized as per Muslim Religious Rites on 30.09.1998 and thereafter both parties resided together. While residing so, the husband got an employment and he went abroad, the relatives of the husband demanded more amount and gold from the wife. She could not pay such a huge demand, there developed a difference of opinion between them and finally on 29.05.2001 their marriage was divorced. The revision petitioner is employed as Engineer abroad and he is getting monthly salary of ₹.1,50,000/-. In the circumstance, the first respondent and daughter, claimed maintenance. As a divorced wife, she was granted with separate maintenance as per Muslim Women (Protection of Rights on Divorce) Act, 1986 and the learned Judicial First Class Magistrate rejected her claim and granted a monthly maintenance of ₹.2500/- to the minor. For getting the arrears of the maintenance, first respondent

filed execution petition before Family Court, Alappuzha. Against that the father of the minor approached this court with these Revision Petitions.

3. The learned counsel appearing for the revision petitioner contended that he had already deposited Rs.3,00,000/- in the name of the minor in the Family Court as per an agreement entered between the first respondent and the revision petitioner. The Fixed Deposit receipt kept in the Family Court was renewed subsequently. If that be the position, giving separate maintenance to the minor child itself is injustice in view of the settlement.

4. I have considered the contention put forward by the learned counsel appearing for the revision petitioner. No written objection has been filed by the Counter Petitioners in the Family Court with regard to the claim put forward by the revision petitioner. It is true that the Family court ordered maintenance to the minor child at the rate of ₹.2500/- per month from 31.12.2004 itself. The mother is entitled to receive the amount for and on behalf

of the minor. Now the father claims that there was a settlement between the revision petitioner and first Counter Petitioner, they can adjust the amount from the deposit amount kept in the Family Court. All the conditions in the agreement were satisfied by the revision petitioner, therefore the minor can approach the Family Court for getting the due amount from the Fixed Deposit and adjust the future maintenance amount from that amount.

5. Even though the revision petitioner contended that he deposited some amount as per the conditions in the agreement, but that is not a ground for non-payment of the arrears of maintenance of the minor. Since she is a student, it is the primary responsibility of the father and mother to look after the minor, now-a-days it is not possible to meet the day to day activities of the minor with ₹2500/- per month. The minor child need good food and better living condition for her livelihood. Therefore, I am of the view that the amount is to be enhanced according to the status of the parents and standard of

living. For this the minor can approach court below for getting enhanced amount of maintenance. The mother also has the responsibility to pay maintenance to the minor, since she is also employed. Considering the totality of the facts highlighted before me, I am of the view that the revision petitioner is dragging the payment for a long time. It is pertinent to note that keeping the Fixed Deposit in the Family Court is not a ground for evading the maintenance granted by the Judicial First Class Magistrate. Hence the revision petitioner is directed to deposit all the arrears as per the claim petition within two months from the date of receipt of the copy of this order failing which it will carry 12% interest from the date of order of maintenance.

There is no merit in these Criminal Revision Petitions and they are dismissed accordingly.