

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

MONDAY, THE 8TH DAY OF JUNE 2015/18TH JYAISHTA, 1937

RPFC.No. 106 of 2010 ()

AGAINST THE ORDER IN MC 542/2006 of FAMILY COURT, MALAPPURAM
DATED 20-11-2009

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REVISION PETITIONER(S)/RESPONDENT::

RAJESH, S/O.K.P.VENUGOPALAN,
PUNNAKKOTTU HOUSE, PERINGAVU, VAZHAYUR,
RAMANATTUKARA, MALAPPURAM DISTRICT.

BY ADVS.SRI.BABU S. NAIR
SRI.K.RAKESH

RESPONDENT(S)/PETITIONER:

SHIJI, D/O.BALAN NAIR,
PILASSERI HOUSE, THOLLAPPALLY, CHELEMPRA,
MALAPPURAM DISTRICT.

BY ADV. SRI.MANJERI SUNDERRAJ

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY
HEARD ON 08-06-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

OKB

K.HARILAL, J.

R.P(FC).No. 106 of 2010

Dated this the 8th day of June, 2015.

O R D E R

Revision petitioner is the respondent in M.C. No.542/06 on the files of the Family Court, Malappuram. The above M.C. was filed by the respondent herein, who is the wife of the revision petitioner, claiming maintenance allowance under Section 125(1) of the Code of Criminal Procedure. According to the respondent, the revision petitioner has neglected to maintain her and refused to pay maintenance allowance. She has no job or any source of income and she is unable to maintain herself; whereas, the revision petitioner is conducting a bakery and getting Rs.20,000/- per month. In addition to that, he is getting Rs.10,000/- from agricultural activities also. The revision petitioner admitted the marital status of the respondent, but denied the allegation that he is getting Rs.20,000/- per month

from bakery business. According to him, he is a helper to his father, who is an agriculturist. After considering the rival pleas, the court below directed the revision petitioner to pay maintenance allowance at the rate of Rs.3,000/- per month.

2. Heard the learned counsel for the revision petitioner. Going by the impugned order, it is seen that the marital status of the respondent is not disputed. The revision petitioner has failed to make out a case enabling him to get exempted from the said liability under Section 125(4) of the Cr.P.C. It follows that the revision petitioner is liable to pay maintenance allowance to the respondent under Section 125(1) of the Cr.P.C. Therefore, I do not find any illegality in directing the revision petitioner to pay maintenance allowance to the respondent.

3. Coming to the quantum of maintenance allowance, though it is contended that the revision petitioner is conducting a bakery, no evidence has been adduced to substantiate the said contention. The revision petitioner has no case that he is physically

disabled or incapacitated to do work so as to earn livelihood for his family. 'Means' signifies not only movable or immovable property in the shape of income, salary or wages, but it includes the earning capacity of a healthy able bodied man. In the above view, I find that the revision petitioner has means to pay maintenance allowance to the respondent. The husband is liable to pay maintenance allowance to his wife in accordance with the status of the wife and the day-to-day needs.

4. Considering the steep hike in the living cost caused by inflation, I find that the determination of quantum of maintenance allowance at the rate of Rs.3,000/- per month is just and reasonable, warranting no interference under revisional jurisdiction.

This R.P(FC) is dismissed.

Sd/-
K. HARILAL, JUDGE

okb.