

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

TUESDAY, THE 9TH DAY OF JUNE 2015/19TH JYAISHTA, 1937

R.P.F.C.No. 411 of 2010

MC 102/2010 of FAMILY COURT, MALAPPURAM

REVISION PETITIONER/RESPONDENT:

MUJEEB RAHMAN, S/O.SAITHALAVI,
CHEMBAN HOUSE, CHELOOPADAM, CHELEMBRA
TIRURANGADI TALUK.

BY ADV. SRI.K.A.SALIL NARAYANAN

RESPONDENT(S)/PETITIONERS:

1. SAUDA, D/O.ABDUL KHADER,
OORPPATTIL HOUSE, KUNDAN KADAVU, MOONIYOOR
TIRURANGADI TALUK - 676 306.

2. FATHIMAHANNA, 1¼ YEARS, (MINOR) ,
MINOR RESPONDENT IS REPRESENTED BY GUARDIAN
MOTHER (1ST RESPONDENT) .

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY
HEARD ON 09-06-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

STU

K.HARILAL, J.

=====

R.P.(F.C) No.411 of 2010

=====

Dated this the 9th day of June, 2015

ORDER

The petitioner is the respondent in M.C.No.102/2010 on the files of the Family Court, Malappuram. The above M.C was filed by the respondents herein, who are the wife and daughter of the petitioner herein, claiming maintenance allowance under Section 125 of the Cr.P.C. The court below directed the revision petition to pay maintenance allowance @ ₹3,000/- to the 1st respondent and ₹600/- to the 2nd respondent. The legality of the entitlement and the correctness of the quantum are under challenge in this revision petition.

2. Heard the learned counsel for the petitioner. The learned counsel for the petitioner advanced arguments assailing the findings whereby the court below directed the revision petitioner to pay maintenance allowance as

referred above.

3. The marital status of the 1st respondent and the paternity of the 2nd respondent are not disputed. The date of separation as 27.3.2009 is not disputed. There is no evidence to show that after the said date, the petitioner has been maintaining the respondents. In short, he refused to pay maintenance after separation. The court below specifically observed that there is no offer from his part to take back his wife and daughter. Admittedly, he is facing prosecution under Section 498A of the IPC. In the above view of the matter, the court below can be justified in finding that the respondents are entitled to get maintenance allowance.

4. Coming to the quantum of maintenance allowance, there is no evidence to show that the 1st respondent has any job or income or she is able enough to maintain herself and the 2nd respondent. Per contra, the evidence shows that the petitioner is the driver of a goods autorikshaw. He has no

case that he is physically disabled or incapacitated to do work of driving. A healthy able bodied man is presumed to be having sufficient earning capacity. The husband is liable to pay maintenance allowance in accordance with the living status, standard of life and day-to-day requirements of the wife and child. Steep increase in the living cost caused by inflation is a factor which has to be considered while determining the quantum of maintenance allowance.

5. In that view of the matter, the court below is justified in directing the petitioner to pay maintenance allowance at the rate of Rs.3,000/- to the 1st respondent and Rs.600/- to the 2nd respondent. I find no reason to interfere with the said finding.

The R.P.(F.C) is dismissed accordingly.

Sd/-
K.HARILAL, JUDGE.

stu

//True copy//

P.A to Judge