

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

FRIDAY, THE 12TH DAY OF JUNE 2015/22ND JYAISHTA, 1937

RPFC.No. 31 of 2011

MC 235/2010 of FAMILY COURT, MALAPPURAM

REVISION PETITIONER/RESPONDENT:

SAITHALIKUTTY, AGED 58 YEARS,
S/O.MARAKKAR HAJI, ORUVIL HOUSE, KALATHOL
NADUVATTOM.P.O, TIRUR TALUK.

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENT/PETITIONER:

JAMEELA, D/O.KUNHITHEENKUTTY,
AGED 38 YEARS, OZHUKKAPARAMBIL HOUSE, KANHIPPURA
KARIPPOL.P.O, TIRUR TALUK-676 101.

BY ADVS. SRI.K.P.SUDHEER
SRI.SUMODH MADHAVAN NAIR

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY
HEARD ON 12-06-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

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K.HARILAL, J.

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R.P.(F.C) No.31 of 2011

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Dated this the 12th day of June, 2015

ORDER

The legality of the entitlement of maintenance allowance and the quantum of amount fixed by the Family Court, Malappuram in M.C.No.235/2010 filed by the respondent herein are under challenge in this revision petition. The petitioner is the husband of the respondent, who filed the above M.C claiming maintenance allowance under Section 125 of the Code of Criminal Procedure.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondent. The learned counsel for the petitioner advanced arguments assailing the findings whereby the court below determined the entitlement of maintenance allowance in favour of the respondent. According to the counsel, the quantum of amount determined by the court below is also excessive and

disproportionate with his income.

3. Per contra, the learned counsel for the respondent advanced arguments to justify the findings whereby the court below determined the entitlement of maintenance allowance and the quantum of amount.

4. Though the petitioner has contended that he had pronounced Talaq and thereby divorced the respondent, the court below, after meticulously considering Ext.B5, found that there is no valid Talaq and thereby the respondent is continuing as the wife of the petitioner. I do not find any illegality or impropriety in the said finding. According to the respondent, the petitioner has neglected to maintain her and the child and refused to pay maintenance allowance to them. She has no job or any sources of income. So, she is unable to maintain herself and the only child born in the wedlock with the petitioner. The petitioner in evidence admitted the paternity of the child. It has also come out in evidence that he has the first wife and nine grown-up children. He is a very active politician and office bearer of

a leading political party. He is also the District Counsellor, Malappuram. He has landed properties including a laterite quarry. Among the nine children, six of them are working in gulf and the petitioner is managing the properties of his children. It could be reasonably presumed that he is reasonably well off and can spare a considerable amount for the maintenance of his new wife. He has no case that he is unhealthy or physically disabled or incapacitated to do work so as to earn livelihood for his wife and child.

5. As rightly observed by the court below, considering the status of the petitioner, the respondent and only child have right to live with the standard of life at par with that of the petitioner. Husband is liable to pay maintenance allowance to the wife in accordance with their family status, standard of life and the day to day requirements of his wife and children. So also the term "Maintenance" includes provision for food, clothing, shelter, medical attendance, educational expenses etc. of the children. There is a steep hike in the living cost due to inflation and a corresponding

increase in the income of every earning person also.

6. In the above view of the matter, I find that the quantum of maintenance determined @₹3,000/- per month is reasonable, just and proper and no interference is called for.

This revision petition is dismissed.

Sd/-
K.HARILAL, JUDGE.

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//True copy//

P.Ato Judge