

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

THURSDAY, THE 12TH DAY OF NOVEMBER 2015/21ST KARTHIKA, 1937

RPFC.No. 112 of 2011 ()

MC 459/2010 OF FAMILY COURT, MALAPPURAM

REVISION PETITIONER/RESPONDENT:

NARUKAN CHIRA HAMZA, AGED 46 YEARS,
S/O.(LATE) MOIDEEN KUTTY ELIYAPPATTA P.O.
CHERPPULASSERY, OTTAPPALAM TALUK, PALAKKAD.

BY ADVS.SRI.G.SREEKUMAR (CHELUR)
SRI.K.RAVI (PARIYARATH)

RESPONDENTS/PETITIONERS:

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1. MANGADAN PARAMBATH SAJITHA, AGED 34
YEARS, D/O.MARAKKAR MUSALIYAR MANALAYA
ANAMANGADU VILLAGE, ANAMANGADU P.O.
PERINTHALMANNA TALUK, MALAPPURAM DISTRICT 679322.
 2. NAJMA, 5 YEARS (MINOR)
 3. NAHLA 4 YEARS (MINOR)
(MINOR RESPONDENTS ARE REPRESENTED BY
GUARDIAN MOTHER THE IST RESPONDENT).

R, BY ADV. SRI.A.MOHAMED MUSTAQUE
R, BY ADV. SRI.K.R.AVINASH (KUNNATH)

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD
ON 12-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

SCL.

B. SUDHEENDRA KUMAR, J.

R.P.(F.C.) No. 112 of 2011

Dated this the 12th day of November, 2015

ORDER

The revision petitioner is the respondent in M.C.No.459 of 2010 on the files of the Family Court, Malappuram. The revision petitioner was directed by the court below to pay ₹2,000/- per month to the first respondent, ₹600/- per month to the second respondent, ₹400/- per month to the third respondent towards their maintenance.

2. Heard both sides.

3. The status of the first respondent as the wife and the respondent Nos. 2 and 3 as the children of the revision petitioner is not disputed.

4. The respondents would contend that the first respondent was deserted by the revision petitioner on 12.08.2007, when she was pregnant. She delivered the third respondent on 16.12.2007. The revision petitioner refused to maintain the respondents from 12.08.2007 onwards. The first

respondent is not having any source of income for the maintenance of the respondents. The revision petitioner is having three autorickshaws and one taxi car, from which he is getting huge amount every month.

5. The revision petitioner would contend that the revision petitioner did not desert the first respondent. The revision petitioner further contended that the first respondent administered poison to him through food. That was the reason for the separation.

6. Before the court below, PW1 was examined and Exts.A1 and A2 were marked for the respondents herein. RW1 was examined and Exts.B1 to B3 were marked for the revision petitioner.

7. RW1 admitted that he married four women including the first respondent. Eventhough the revision petitioner contended that the first respondent had administered poison to him through the food, no material is available before the court to indicate that any such thing had ever occurred. The court

below, after evaluating the evidence of PW1 and RW1, came to the conclusion that the first respondent was forced to leave the company of the revision petitioner due to the cruelty by the revision petitioner.

8. The revision petitioner does not have a contention that the first respondent is having any job or source of income for the livelihood of the respondents. RW1 stated that he is a coolie, getting ₹450/- per day. He is also holding a valid driving licence to drive the autorickshaw. RW1 admitted that he was an autorickshaw driver. He is having a house and landed properties.

9. After evaluating the evidence of PW1 and RW1, the court below found that the revision petitioner is having sufficient income to maintain the respondents. Taking into consideration of the needs of the respondents, the status of the parties and the probable income of the revision petitioner, the court below fixed the quantum of maintenance as stated above. No circumstance has been brought to my notice to

indicate that the quantum of maintenance awarded by the court below is exorbitant or unreasonable.

Having gone through the order impugned, I do not find any infirmity in the order impugned, warranting interference by this Court.

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

However, the revision petitioner is granted four months to pay the entire arrears of maintenance.

Sd/-

**B. SUDHEENDRA KUMAR
JUDGE**

Scl.

True Copy

PA to Judge