

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

MONDAY, THE 13TH DAY OF JULY 2015/22ND ASHADHA, 1937

RPFC.No. 124 of 2011 ()

**(AGAINST THE ORDER MC.NO. 587/2010 OF FAMILY COURT, MALAPPURAM
DATED 18-01-2011)**

REVISION PETITIONER/RESPONDENT:

**MUSTHAFA, 40 YEARS, S/O.MOHAMMED,
CHERIYIL HOUSE, KOZHINHIL, KOLAPARAMBU,
PERNTHATTIRI P.O., MAKKARAPARAMBU (VIA),
MALAPPURAM POLICE STATION.**

**BY ADVS.SRI.T.K.SAIDALIKUTTY
SRI.A.A.ZIYAD RAHMAN
SRI.BIJU MARTIN**

RESPONDENT(S)/PETITIONERS:

- 1. MYMOONA, 33 YEARS, D/O.AYAMU,
NECHIKANDAN HOUSE, MOTTAMMAL, KOOTILANGADI P.O.,
KOOTILANGADI AMSOM, KADUVAMBURAM DESOM,
PERINTHALMANNA TALUK, MALAPPURAM POLICE STATION,
PIN -676 507.**
- 2. MUHSINA, 15 YEARS, (MINOR).**
- 3. MURSHID, 13 YEARS, (MINOR),
(MINOR RESPONDENTS ARE REPRESENTED BY GUARDIAN
MOTHER 1ST RESPONDENT).**
- 4. THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.**

**R1 BY ADV. SRI.K.K.MOHAMED RAVUF
R4 BY PUBLIC PROSECUTOR SRI.JUSTIN JACOB**

**THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD
ON 13-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

K.HARILAL, J.

R.P(FC). No. 124 of 2011

Dated this the 13th day of July, 2015

ORDER

The revision petitioner is the respondent in MC.No.587/2010 on the files of the Family Court, Malappuram, which was filed by the respondents herein; who are the wife and children of the petitioner claiming maintenance allowance under Section.125 of the Code of Criminal Procedure.

2. The marital status of the 1st respondent, as legally wedded wife, and the paternity of the respondents 2 and 3, as children born in the said wedlock, are not disputed . According to the 1st respondent, she has no job or any source of income and she is unable to maintain herself and the respondents 2 and 3; whereas the petitioner was employed abroad for a long time and, after amazing money, he has come back and well settled here. Now, he is employed with a salary of Rs.30,000/- per month and has an agricultural income of Rs.1,000/- per

month from the landed properties. He owns an auto rickshaw and is working as an automobile broker and doing real estate business also. The children are studying in different classes and a substantial amount is required to meet their educational expenses.

3. Per contra, the petitioner denied the allegation of the 1st respondent that he is an auto rickshaw driver. According to him, he does not have any job or agricultural income. It is also alleged that the 1st respondent is having some mental disease. But he admitted that they are living separately for the last 10 years. It is also contended that the quantum of maintenance allowance determined by the court below is excessive and disproportionate with his income.

4. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

5. The marital status of the 1st respondent and the paternity of the respondents 2 and 3 are not disputed

and it is also not disputed that the petitioner is living separately for the last 10 years and the respondents are living together. The petitioner has miserably failed to prove that the 1st respondent has any job or any source of income. Therefore, it can be safely concluded that she is unable to maintain herself and the respondents 2 and 3. The respondents 2 and 3 are the school going children aged 15 and 13 years respectively at the time of filing the petition. During cross examination, the petitioner himself admitted that he has no physical disability or incapacity to do work and he has not paid any amount towards the maintenance of the respondents since last 10 years. He further admitted that he is engaged in agricultural operations also. In that view of the admissions made by the petitioner himself, the court below can be justified in finding that he is capable of sparing a reasonable amount for the maintenance of his wife and 2 children.

5. 'Maintenance' includes provision for food, shelter, clothing, medical attendance and educational expenses. The husband is liable to pay maintenance allowance to his wife and children, in accordance with their living status, standard of life and day-to-day needs.

6. In the above view, I find that the quantum of maintenance allowance determined by the court below at the rate of Rs.2,500/- per month to the 1st respondent and Rs.1,000/- per month each to the respondents 2 and 3 is reasonable, just and proper and no interference is called for under the revisional jurisdiction. Needless to say, he is liable to pay maintenance allowance to the respondents 2 and 3 till they attain majority.

This R.P.(FC) is dismissed accordingly.

Sd/-
K.HARILAL
JUDGE