

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

TUESDAY, THE 17TH DAY OF NOVEMBER 2015/26TH KARTHIKA, 1937

RPFC.No. 93 of 2013 ()

**-----
AGAINST THE ORDER IN MC 41/2011 ON THE FILE OF THE FAMILY COURT,
VADAKARA DATED 20-11-2012
-----**

REVISION PETITIONER(S)/RESPONDENT :

**SURESH, AGED 40 YEARS,
S/O.KUTTY CHEKKINI,
KUNNARAMBATH POYIL HOUSE,
CHENOLI POST, CHENOLI AMSOM DESOM,
KOYILANDY TALUK, KOZHIKODE DISTRICT.**

**BY ADVS.SRI.K.P.SUDHEER
SRI.ARUN MATHEW VADAKKAN**

RESPONDENT(S)/PETITIONER :

**SOBIKA, AGED 36 YEARS,
D/O.KRISHNANA, VAYATT HOUSE,
MELUR AMSOM CHELIYA DESOM,
KOYILANDY TALUK, KOZHIKODE DISTRICT,
PIN - 673 306.**

**R1 BY ADV. SRI.P.R.SREEJITH
R1 BY ADV. SRI.M.PROMODH KUMAR**

**THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD
ON 17-11-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

AMV

B.SUDHEENDRA KUMAR, J.

.....
R.P.(FC) No.93 of 2013
.....

Dated this the 17th day of November, 2015

ORDER

The revision petitioner is the respondent in M.C.No.41 of 2011 on the files of the Family Court, Vatakara. The revision petitioner was directed to pay Rs.3,000/- (Rupees three thousand only) per month to the respondent herein towards her maintenance.

2. Heard both sides.

3. The status of the respondent as the wife of the revision petitioner is not disputed.

4. The respondent would contend that she is not having any job or other source of income for her livelihood. The revision petitioner is getting a salary of Rs.30,000/- per month from his job abroad. He is also earning an amount of Rs.10,000/- per month from his landed properties.

5. The revision petitioner would contend that he lost his employment abroad and now he is not having any employment at all. It was further contended by the revision petitioner that the respondent is a teacher, getting good salary.

6. Before the court below, the respondent was examined as PW1. RW1 and RW2 were examined and Ext.B1 was marked for the revision petitioner.

7. It has been argued by the learned counsel for the revision petitioner, relying on Ext.B1, that since there was an agreement to waive the right of the respondent under Section 125 of Cr.P.C., the present MC is not maintainable on that reason alone. The court below observed that PW1 denied to have signed on Ext.B1 agreement. Even on assuming that there was any such agreement, the statutory right conferred on the respondent under Section 125 of Cr.P.C., cannot be taken away by any such agreement. A Division Bench of this Court in Rajesh R. Nair v. Meera Babu [2013 (1) KLT 899] held that an agreement by which a wife waives her right guaranteed under Section 125 of Cr.P.C. will only be an agreement against public policy and hence void. When the agreement is against public policy, the said agreement is not enforceable. In view of the above reason, the argument in this regard advanced by the learned counsel for the revision petitioner fails.

8. Even though, the revision petitioner contended that PW1 is a teacher by profession, CPW1 himself admitted that he

was not having any direct knowledge with regard to the same. There is no material before the court to show that PW1 is having any job or source of income for her livelihood. CPW1 would state that he earns an amount of Rs.200/- per day from his coolie job.

9. CPW1 stated that he was getting only Rs.200/- per day as wages. However, the court below observed that a coolie worker would get not less than Rs.500/- per day as wages. Taking into consideration of the needs of the respondent, status of the parties and the probable income of the revision petitioner, the court below directed the revision petitioner to pay maintenance as stated above.

The maintenance ordered by the court below is not exorbitant or unreasonable. No circumstance has been brought to my notice to indicate that the order impugned suffers from any infirmity warranting interference by this Court.

In the result, this revision petition stands dismissed.

Sd/-
B.SUDHEENDRA KUMAR
JUDGE

AMV/18/11/15

/TRUE COPY/

P.A.TO JUDGE