

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR

TUESDAY, THE 3RD DAY OF MARCH 2015/12TH PHALGUNA, 1936

RPFC.No. 307 of 2013 ()

AGAINST THE ORDER IN MC 70/2012 of FAMILY COURT, PALAKKAD
DATED 30-09-2013

REVISION PETITIONER(S)/RESPONDENT:

MURALI, AGED 36 YEARS,
S/O.VELAYUDHAN, KANHIRAMKADU VEEDU,
KUNISSERI, ALATHUR,
PALAKKAD DISTRICT. PIN - 678 681

BY ADV. SRI.V.A.JOHNSON (VARIKKAPPALLIL)

RESPONDENT(S)/PETITIONER:

VIJINI S., AGED 29 YEARS
D/O.SUDEVAN, CHAKKARATHODI VEEDU
PERUKUNNAM P.O.KUZHALLMANNAM, ALATHUR
PALAKKAD DISTRICT -678 541

BY ADV. SRI.JACOB SEBASTIAN

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD ON
03-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

dlk

C.T.RAVIKUMAR, J

R.P.(F.C) No. 307 of 2013

Dated this the 3rd day of March, 2015

ORDER

This revision petition is filed against the order dated 30.9.2013 passed by the Family Court, Palakkad in M.C.No.70/2012. The revisionist-husband was the respondent therein and the respondent herein was the petitioner therein. It was filed by the respondent herein claiming maintenance from the revision petitioner under section 125 of the Code of Criminal Procedure. At the very outset it is to be noted that the factum of marriage with the respondent herein has not been disputed by the revision petitioner. In fact, their marriage was solemnised on 13.11.2011. It is the case of the revision petitioner that after the marriage they started living separately from 22.11.2011. It is also stated therein that she was mentally and physically harrassed by the revision petitioner for bringing more dowry and that on 22.11.2011 the revision petitioner sent her out of his house in order to compel her to bring more money from her house. It is further alleged therein that on 8.12.2011 the respondent along with his friends came to her

paternal house and threatened her and in connection with the said incident she filed a complaint before the Vanitha Cell. It is also stated therein that she is an unemployed and the petitioner who is capable of maintaining the respondent is neglecting to maintain her. The respondent contended that the revision petitioner herein is working as Last Grade Servant in Agricultural Department and he has been drawing salary of Rs.17,000/- per month. It was in the said circumstances that the respondent filed the petition claiming maintenance. The respondent appeared and filed counter affidavit resisting the contentions. Evidently, he took up the contention that he is prepared to continue the spousal relationship and that the case was filed against him only to conceal her mental illness. He also taken up another contention that she is living separately without any reason and that she is working as a lecturer in Co-operative College, Alathur and she is getting ₹6,000/- as monthly salary. He has also denied the allegations of mental and physical torture. To substantiate the said submissions the revision petitioner got himself examined as RW1 and got marked Exts.D1 and D2 documents. On the side of the respondent herein/the petitioner therein she was examined as PW1 and Ext.P1 was marked. The Family Court, after

evaluating the evidence on record found that it could not be said that the respondent herein is refusing to live with the revision petitioner without any sufficient reason. Evidently, the petitioner did not deny the factum of marriage with the respondent. The petitioner has not established a case to get absolved from liability to maintain the respondent and he has also failed to establish that she has incurred any disqualification in the light of the provisions under section 125(4) of the Cr.P.C. to claim maintenance. Taking into all such circumstances the Family Court found that the revision petitioner is liable to maintain the respondent. Going by the nature of the rival pleadings and evidence as revealed from the discussion in the judgment and also the rival contentions it is evident that the Family Court could not be said to have faulted in finding that the respondent is living separately for sufficient reason. As already noticed the factum of marriage is not disputed by the revision petitioner. He has also failed to adduce evidence to establish that the revision petitioner is able to maintain herself or that she had incurred any disqualification to maintain maintenance by virtue of the provisions under section 125(4) Cr.P.C. In such circumstances, I do not find any reason to interfere with the finding of the Family

Court that the revision petitioner is liable to maintain the respondent. While considering the quantum of maintenance to be awarded the fact that the respondent was gainfully employed for sometime in a school for the period from 20.5.2012 to 31.3.2013 was taken note of. Though the respondent contended that during the said period she was getting only a salary of Rs.4,500/- per month no evidence whatsoever was produced to show that she was getting only the said amount as salary. Taking into account such circumstances the Family Court found that she was employed during the said period and declined to order of maintenance in her favour for the period from 20.5.2012 to 31.3.2013. No evidence was adduced by the revision petitioner to establish that she got employment even thereafter. In the absence of such evidence of oral testimony of PW1 to the effect that she is employed and she is unable to maintain herself was accepted by the Family Court. Ext.D1 is the salary slip of the revision petitioner. He has produced Ext.D2 to show that he had availed a loan of RS.2,50,000/-. Exts.D1 and D2 are produced to show that deduction is being effected towards the loan amount and also towards GPF, Advance etc., and that his take home salary is only Rs.7,411/-. The family court took

note of the fact that going by Ext.D1 the revision petitioner is drawing salary more than 17,000/- per month and accordingly found that he is liable to pay an amount of Rs.4,000/- as monthly maintenance to the revision petitioner. Taking into account the present cost of living such fixation cannot be said to be exorbitant warranting interference in exercise of the revisional jurisdiction. In short, on a perusal of the order I do not find any reason to interfere with the finding of the family court that the revision petitioner is liable to maintain the respondent and also the fixation of the monthly maintenance at the rate of RS.4,000/-. Resultantly, this revision petition is liable to fail and accordingly it is dismissed.

Sd/-

C.T.RAVIKUMAR,JUDGE.

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