

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

MONDAY, THE 1ST DAY OF JUNE 2015/11TH JYAISHTA, 1937

RPFC.No. 116 of 2015 ()

AGAINST THE ORDER IN MC 657/2012 of FAMILY COURT, MALAPPURAM
DATED 04-12-2014

REVISION PETITIONER(S)/RESPONDENT :

PUTHALATH BASHER, AGED 47 YEARS
S/O.ALI, KOOLIPARAMBU HOUSE, CHANAKAPPADI
KOORAD P.O., VANIYAMBALAM VIA, MALAPPURAM DISTRICT.

BY ADV. SRI.U.K.DEVIDAS

RESPONDENT(S)/PETITIONER:

RAMLATH, AGED 41 YEARS
D/O.MAMOOTTI (LATE), KARUVATHIL VEEDU, KALIKAVU
ADAKKAKUNDU, NADUKUNNU, NILAMBUR
MALAPPURAM DISTRICT-679 339.

THIS REV.PETITION(FAMILY COURT) HAVING COME UP FOR
ADMISSION ON 01-06-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

STU

K.HARILAL, J.

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R.P.(F.C) No.116 of 2015

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Dated this the 1st day of June, 2015

ORDER

The revision petitioner is the respondent in M.C.No.657/2012 on the files of the Family Court, Malappuram, filed by the respondent herein, who is the wife of the petitioner, under Section 125 of the Cr.P.C, claiming maintenance allowance from the petitioner. According to the respondent, the petitioner has neglected to maintain her and refused to pay maintenance allowance. She has no job or income and she is unable to maintain herself; whereas the petitioner has sufficient means to pay maintenance allowance. The petitioner was working in a fish market in Damam for many years and thereafter, he returned from there after amassing wealth and now he is conducting a ready-made dress business. She claimed an amount of ₹10,000/- as maintenance allowance from the petitioner.

The petitioner contended that the allegation that the respondent is unable to maintain herself is absolutely false. He admitted that he had worked in gulf country for some time. He denied the allegation that he is conducting the business of ready-made dress. He is not healthy and incapacitated to do work. After considering the rival pleas, the court below directed the revision petitioner to pay maintenance allowance @ ₹2,000/- per month to the respondent. The legality of the entitlement of maintenance allowance and the correctness of quantum are under challenge in this revision petition.

2. Heard the learned counsel for the petitioner.

3. The marital status of the respondent as wife is not disputed by the petitioner. Though, he contended that he is unhealthy and incapacitated to do work, no evidence had been brought out to substantiate the said contention. In the absence of any proof to establish the impairment of his earning capacity, the petitioner is liable to maintain his

wife, who is unable to maintain herself. It is contended that the petitioner has to maintain his three children born in the first marriage. I am of the opinion that the petitioner cannot escape from the liability to pay maintenance allowance on the said reason as the liability under Section 125(1) is a statutory liability. Having regard to the high living index and the status of the respondent, I find that the quantum of maintenance allowance determined by the court below is just and reasonable and no interference is called for under revisional jurisdiction.

4. The learned counsel for the revision petitioner seeks time to pay the arrear. Having regard to the facts and circumstances of the case, the revision petitioner is given 'four' months' time to pay the arrear, provided that, the revision petitioner shall pay half of the entire arrear within a period of 'two' months from today and the remaining balance shall be paid within the next two months. In the event of failure to pay the first instalment within the

specified time, this facility will stand cancelled automatically and the Family Court will be free to enforce the realisation of entire arrear in lump sum.

The revision petition will stand disposed of.

Sd/-
K.HARILAL, JUDGE.

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P.Ato Judge