

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

MONDAY, THE 25TH DAY OF MAY 2015/4TH JYAISHTA, 1937

RPFC.No. 154 of 2015 ()

[MC 300/2012 of FAMILY COURT, PALAKKAD]

REVISION PETITIONER(S)/RESPONDENT:

**MAJEED, AGED 30 YEARS, SON OF KUNJUMON,
KARIPPALIL HOUSE, THEKKEPUNNAYUR P.O.
THRISSUR DISTRICT -679 562.**

**BY ADVS.SRI.E.VIJIN KARTHIK
SRI.BIJU JOSEPH**

RESPONDENT(S)/PETITIONERS:

- 1. SHANIBA, AGED 25 YEARS, D/O.LATE EQBAL,
NADUVIL HOUSE, PODIPPARA, KALLEKKADU P.O.,
PALAKKAD DISTRICT, PIN.678 006.**
- 2. FIDA JIYAN, AGED 5 YEARS (MINOR),
D/O. MAJEED,
MINOR RESPONDENT/PETITIONER REPRESENTED BY MOTHR
SHANIBA, D/O.LATE EQBAL, NADUVIL HOUSE
PODIPPARA, KALLEKKADU P.O.PALAKKAD DISTRICT
PIN-678 006.**

**THIS REV.PETITION(FAMILY COURT) HAVING COME UP FOR ADMISSION ON
25-05-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

OKB

K.HARILAL, J.

R.P(FC). No.154 of 2015

Dated this the 25th day of May, 2015.

O R D E R

1.The revision petitioner is the respondent in M.C.No.300/2012 on the files of the Family Court, Palakkad. The first respondent is his wife and the second respondent is the minor child born in the wedlock. According to the first respondent, the petitioner has neglected them and refused to pay maintenance allowance to them. The first respondent has no job or income and she is unable to maintain herself and the second respondent. The revision petitioner denied all the allegations levelled against him and contended that he has having only a small partnership business and cable connection and he is getting Rs.5,000/- only per month. He is not able to do any kind of physical labour as he was suffering from psoriasis. It is also contended that

the first respondent is able enough to maintain herself and the second respondent. In evidence, the revision petitioner has deposed that he is getting Rs.6,000/- per month. After considering the rival contentions, the court below directed the revision petitioner to pay maintenance allowance at the rate of Rs.3000/- to the first respondent and Rs.2,000/- to the second respondent. The legality of the entitlement of maintenance allowance and the correctness of the quantum fixed by the court below are under challenge in this revision petition.

2.Heard the respective counsel for the revision petitioner and the respondents.

3.The short question that arises for consideration is whether there is any illegality or impropriety in the findings whereby the court below directed the revision petitioner to pay maintenance allowance to the respondents at the rates referred above.

4.The marital status of the first respondent and the paternity of the second respondent are not disputed. The revision petitioner has no case that he has been paying maintenance allowance to the respondents and no evidence has been adduced to show the payment of maintenance allowance contrary to the allegations levelled against him. The revision petitioner has contended that he is suffering from psoriasis and he is unable to do any kind of work. I am unable to accept the said contention to exonerate the revision petitioner from the liability to pay maintenance allowance under Section 125 of the Cr.P.C. There is no medical evidence to show that he is physically disabled or incapacitated to do work so as to earn livelihood for his family. So also, during the course of letting in oral evidence, the revision petitioner himself admitted that he is a cable TV provider and there are 150 connections of cable TV and the charge for one connection is Rs.150/- per month. So the total income per month from the said business is Rs.22,500/-. Therefore, there is no legal

infirmity in the finding whereby the court below directed the revision petitioner to pay maintenance allowance to the respondents.

5. Coming to the quantum of maintenance allowance, the evidence adduced by the revision petitioner himself shows that he is getting Rs.22,500/- per month. The maintenance contemplated under Section 125 of the Cr.P.C. includes provision for food, clothing, shelter, medical attendance, etc. The wife is entitled to get maintenance allowance in accordance with her living status and day-to-day requirements. In that view of the matter, I do not find fault with the direction to pay maintenance allowance at the rates referred above. Thus, the quantum of maintenance allowance determined by the court below is proportionate with the income of the revision petitioner and the standard of life of the family. In that view, I find that the quantum of maintenance fixed by the court below is just and proper warranting no interference with the said finding.

6.The learned counsel for the revision petitioner sought for some time to pay the arrear. Having regard to the facts and circumstances of the case, the petitioner is given four months time to pay the arrear, provided that half of the entire arrear shall be paid within two months and the remaining balance shall be paid within the next two months. In the event of failure to pay the first instalment, this instalment facility will stand automatically vacated and the first respondent is at liberty to realise the entire arrear in lump sum, in accordance with law.

This R.P(FC) is dismissed.

Sd/-
K. HARILAL, JUDGE

okb.