

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

FRIDAY, THE 5TH DAY OF JUNE 2015/15TH JYAISHTA, 1937

RPFC.No. 175 of 2015 (E1)

MC 537/2012 of FAMILY COURT,THRISSUR

REVISION PETITIONER(S)/RESPONDENT:

CHAKOCHAN, AGED 32 YEARS,
S/O.THOMAS, OLIKKAL HOUSE, NEAR MANNUTHI BY-PASS,
MANNUTHI P.O, THRISSUR DISTRICT-680 651.

BY ADVS.SRI.A.T.ANILKUMAR
SMT.V.SHYLAJA

RESPONDENT(S)/PETITIONERS:

1. ANU THOMAS, AGED 28 YEARS,
W/O.CHACKOCHAN, OLIKKAL HOUSE, ASARIKKAD DESOM P.O.,
THRISSUR DISTRICT-680 751.
2. ANNBI, AGED 7 YEARS,
D/O.CHACKOCHAN, OLIKKAL HOUSE, ASARIKKAD DESOM P.O.,
THRISSUR DISTRICT. 680 751.
(2ND RESPONDENT MINOR IS REPRESENTED BY HER MOTHER AND
NATURAL GUARDIAN 1ST RESPONDENT)

R1&2 BY ADV. SRI.VINAY RAMDAS
R1 BY ADV. SMT.SHARON MARY EAPEN

THIS REV.PETITION(FAMILY COURT) HAVING COME UP FOR
ADMISSION ON 05-06-2015, THE COURT ON THE SAME DAY PASSED
THE FOLLOWING:

OKB

K.HARILAL, J.

R.P(FC). No.175 of 2015

Dated this the 5th day of June, 2015.

O R D E R

The revision petitioner is the respondent in M.C. No.537/12 on the files of the Family Court, Thrissur, which was filed by the respondents herein, who are the wife and daughter of the revision petitioner, claiming maintenance allowance under Section 125 of the Cr.P.C. from the petitioner. According to the first respondent the petitioner had deserted them and refused to pay maintenance allowance to them. The respondents have no means to eke out their livelihood whereas the petitioner is an owner-cum-driver of a stage carriage and a Torres lorry. He is deriving Rs.60,000/- from the bus service and Rs.50,000/- from the lorry service. In addition to that he has got a Qualis vehicle and earning monthly income of Rs.35,000/- from the said vehicle. Thus he is deriving a total income of Rs.1,45,000/- per mensem. They

claimed maintenance allowance @ Rs.25,000/- to 1st respondent and Rs.20,000/- to 2nd respondent.

2. The petitioner admitted the marital status of the 1st respondent and the paternity of the 2nd respondent. He denied his income as alleged by the 1st respondent in the petition. He emphatically denied the allegation that he has an illicit connection with another lady and he ill treated the 1st respondent with cruelty. It is also contended that the 1st respondent is a T.T.C. holder and she is working in an Anganvadi at Cherumkuzhy and drawing a salary of Rs.7,000/- per mensem. The court below directed the petitioner to pay maintenance allowance at the rate of Rs.6,000/- to the 1st respondent and Rs.4,000/- to the 2nd 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.

3. Heard the learned counsel for the revision petitioner and the learned counsel for the respondents. The learned counsel appearing for both

parties advanced arguments in support of their respective contentions raised in the M.C.

4. Going by the impugned order it is seen that the marriage status of the 1st respondent and the paternity of the 2nd respondent are not disputed. Though the petitioners had contended that he has been paying maintenance allowance to the 2nd respondent towards tuition fees, no evidence except Ext.D1 has been adduced to substantiate the said contention. Ext.D1 shows that he had paid Rs.3,080/- on 21.10.2013. I am of the opinion that Ext.D1 alone is not sufficient to arrive at a finding that he has been paying maintenance allowance to the 2nd respondent. Going by the oral evidence of RW1, he himself admitted that he owns a lorry and one acre of rubber plantation. He has no case that he is physically incapacitated or unhealthy or disabled to do any work so as to earn livelihood for his family. Though he contended that the 1st respondent is working as a teacher in an Anganvadi, no evidence has been adduced to substantiate the said contention. It shows that the 1st

respondent is unable to maintain herself and the child. In this view of the matter, there is no illegality in the finding that the petitioner is liable to pay maintenance allowance to the respondents.

5. Coming to the quantum of maintenance allowance as has been held above, the petitioner himself admitted that he owns a lorry and one acre of rubber plantation. Whereas the first respondent has no job or any source of income. The petitioner is liable to pay maintenance allowance in accordance with the status of the respondent, and the living cost caused by inflation. Maintenance contemplated under Section 125 of the Cr.P.C. includes provision for food, clothing, shelter, medical attendance, educational expenses, etc. Having regard to the evidence available on record, I find that there is no illegality or impropriety in the impugned order under challenge.

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 first 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 1st 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.