IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

FRIDAY, THE 3RD DAY OF JULY 2015/12TH ASHADHA, 1937

RPFC.No. 226 of 2015 ()

(CRL.MP.4/2014 IN MC 104/2010 OF FAMILY COURT, ALAPPUZHA)

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REVISION PETITIONER(S)/RESPONDENT:

SATHYAPPAN, AGED 59 YEARS,
S/O. KARUNAKARAN, VALANTHARA VEETTIL,
MATTATHIBHAGOM MURI, AROOKKUTTI VILLAGE,
CHERTHALA TALUK.

BY ADVS.SMT.MINI GANGADHARAN
SRI.N.C.SAJUNAM

RESPONDENT(S)/PETITIONER:

BINDHU, AGED 42 YEARS,
D/O. A.S RAMACHANDRAN, SANKARAMANIKYAM VEETTIL, CMC-10,
CHERTHALA TALUK, ALAPPUZHA 688 549.

THIS REV.PETITION(FAMILY COURT) HAVING COME UP FOR ADMISSION ON 03-07-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

OKB

K.HARILAL, J.

R.P(FC). No.226 of 2015

Dated this the 3rd day of July, 2015.

O R D E R

The revision petitioner is the husband of the respondent, who filed Crl.M.P.No.4/14 in M.C.No.104/10 before the Family Court, Alappuzha, claiming enhancement of maintenance allowance. According to the respondent, in the earlier M.C., the revision petitioner was directed to pay maintenance allowance @ Rs.2,000/- per month from 28.10.2010 onwards. Since the cost of living is increased considerably after 2010, the above sum of Rs.2,000/- is insufficient for her maintenance. On the other hand, the revision petitioner is working as a Sales Tax Commissioner and getting more than Rs.60,000/- per month as salary. So, the respondent needs a sum of Rs.3,500/- per month and he is capable enough to pay such an amount. The petitioner resisted the said claim for enhancement contending that the amount claimed is excessive and disproportionate within his income. According to him, he is getting a salary of Rs.60,000/- is false. His basic salary is Rs.24,000/-. From that, he has to spend Rs.4,800/- for purchasing medicine to his aged mother. Rs.3,600/- is required for conveyance to hospital. Rs.8,000/- is required for providing a home-nurse to look after the mother. He has to repay Rs.7,600/- per month towards housing loan. There is a deduction of Rs.3,000/- towards insurance. He needs Rs.3,000/- towards family expense. He has no other savings. After considering the rival pleas and the evidence let in consisting of the oral evidence of the respondent and Ext.B1 medical bill produced by the revision petitioner, the court below directed him to pay enhanced maintenance @ Rs.3,500/- per month from 8.1.2014 onwards. The correctness of the enhanced quantum of maintenance is under challenge in this revision petition.

2. Heard the learned counsel for the revision petitioner, who advanced arguments assailing the findings whereby the court below enhanced

maintenance allowance to Rs.3,500/-. According to him, the enhanced maintenance allowance is disproportionate with his income and the court below failed to consider the expenses quantified by the revision petitioner in his objection in its correct perspective. The short question that arises for consideration is, whether the court below can be justified in enhancing the quantum of maintenance allowance to Rs.3,500/- from Rs.2,000/-?

3. Admittedly, the revision petitioner was directed to pay maintenance allowance to the respondent @ Rs.2,000/- in the year 2010 and now more than 4 years have been elapsed. The steep hike in the cost of living is a universal phenomenon, which does not quire specific proof or evidence. There is a corresponding increase in the income of every earning person also in accordance with the rate of inflation and consequential hike in the living index, particularly in the case of employees and pensioners. The revision petitioner himself admitted that his basic salary is Rs.24,000/-. Even though he had

contended that he has to look after his aged mother, no evidence had been adduced to prove that he is the only son of his parents and the entire liability to look after his mother is shouldered on him alone. In the absence of such evidence, the contention that he alone has to look after his mother cannot be taken into consideration. Though he had contended that in the earlier M.C. the maintenance was fixed as per the compromise and thereby she is not entitled to claim enhanced maintenance allowance, the court below rightly rejected the said contention in view of the decision in Chandran v. Prakashan [2005 (3) KLT 810]. The husband is liable to pay maintenance allowance to his wife in accordance with his living status, standard of life and her day-to-day needs. Admittedly, the revision petitioner is the wife of a Sales Tax Commissioner. Learned counsel for the respondent submits that now he retired from service. But even now the revision petitioner would get pension on the basis of his last drawn salary. The respondent has the right to live with the standard of life on a par with that of a retired Sales Tax Commissioner. In this view of the matter, I find that the enhanced quantum determined by the court below @ Rs.3,500/- per month is not excessive or disproportionate with the income of the revision petitioner. Hence, no interference is called for under revisional jurisdiction.

4. 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 devoid of merits and dismissed accordingly.

Sd/-
K. HARILAL, JUDGE

okb.