

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

THURSDAY, THE 15TH DAY OF OCTOBER 2015/23RD ASWINA, 1937

RPFC.No. 340 of 2015 ()

ORDER IN MC 57/2013 OF FAMILY COURT, THODUPUZHA DATED 14-01-2015

REVISION PETITIONER/COUNTER PETITIONER:

AJAYAN @ JAYAKUDY, AGED 39 YEARS
S/O.ANKATHEVAR, AMBALASSERIL HOUSE, TEA COMPANY
PUMP HOUSE, BISONVALLEY P.O., BISONVALLEY VILLAGE
UDUMBANCHOLA TALUK, IDUKKI DISTRICT.

BY ADV. SRI.LATHEESH SEBASTIAN

RESPONDENTS/PETITIONERS AND STATE:

1. SATHYABHAMA.P.M, AGED 39 YEARS
D/O.MAYURULAN, PATHIYIL HOUSE, 40 ACRE
BISONVALLEY P.O., BISONVALLEY VILLAGE
UDUMBANCHOLA TALUK, IDUKKI DISTRICT.
2. ANANDHU J., AGED 17 YEARS
S/O.AJAYAN @ JAYAKUDY
REPRESENTED BY 1ST RESPONDENT SATHYABHAMA
D/O.MAYURULAN, AGED 39 YEARS, PATHIYIL HOUSE, 40 ACRE
BISONVALLEY P.O., BISONVALLEY VILLAGE
UDUMBANCHOLA TALUK, IDUKKI DISTRICT - 685 586.
3. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

R1&2 BY ADV. SRI.S.JIJI
R BY PUBLIC PROSECUTOR SRI.R. GITHESH

THIS REV.PETITION(FAMILY COURT) HAVING COME UP FOR ADMISSION
ON 15-10-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

SCL.

B. SUDHEENDRA KUMAR, J.

R.P.(F.C.) No.340 of 2015

Dated this the 15th day of October, 2015.

ORDER

The revision petitioner is the counter petitioner in M.C.No.57 of 2013 on the files of the Family Court, Thodupuzha. The revision petitioner was directed to pay a monthly maintenance of ₹2,000/- to the first respondent, who is the wife of the revision petitioner.

2. Heard both sides.

3. Both sides admitted the marriage between the revision petitioner and the first respondent. However, the first respondent had given birth to the second respondent within 37 days of marriage. The said aspect was also admitted by both sides.

4. The first respondent would contend that the first respondent is the legally wedded wife of the revision petitioner. The revision petitioner had illicit relationship with a lady, namely, Mary and in the said circumstances, the revision

petitioner refused to maintain the first respondent from 1.12.2004 onwards. The revision petitioner is a timber union worker in Bisonvalley Grama Panchayath. He is also having 2 acres of landed property. He is having 50 cents of property with cardamom plants. The revision petitioner is earning a monthly income of ₹55,000/-. The first respondent is not having any source of income for her livelihood.

5. The revision petitioner would contend that he is a sick person, having no source of income. The first respondent is living an adulterous life with Madhu, Boss, Thirumakan, Murugan etc. The marriage of the first respondent with the revision petitioner was an arranged marriage. The first respondent was pregnant for 9 months at that time. However, the pregnancy was concealed and the marriage was conducted. Therefore, the revision petitioner lived with the first respondent only for eight days. The first respondent is having 50 cents of land, from which she is getting income. She is also going for daily work in an estate.

6. It is admitted by the revision petitioner that the house of the first respondent was situated just opposite to the house of the revision petitioner. It was stated by the revision petitioner that the marriage between the revision petitioner and the first respondent was an arranged marriage. Therefore, it is beyond the prudence to conceive that the factum of pregnancy of the first respondent was concealed by the first respondent at the time of marriage.

7. Before the court below, PW1 was examined for the first respondent. RW1 to RW3 were examined for the revision petitioner.

8. Even though the revision petitioner contended that the first respondent is having property, from which she is getting income, no material was produced before the court to prove the same. No material was also produced before the court to show that the first respondent was doing coolie work, earning money. Even though RW2 and RW3 were examined by the revision petitioner to prove the adulterous life of the first

respondent, the court below did not believe their evidence. The court below was of the opinion that the said witnesses were interested witnesses. It was observed by the court below that RW2 and RW3 had spoken for the cause of the revision petitioner alone and hence, their evidence was not trustworthy. It has been submitted by the learned counsel for the revision petitioner that the marriage is not yet dissolved. It is borne out from the relevant inputs that the revision petitioner has not so far filed any application before the Family Court seeking for divorce on the ground of adultery.

9. Having gone through the relevant inputs, I am of the view that the court below was perfectly correct in holding that the revision petitioner failed to prove that the first respondent was leading an adulterous life. Even though the first respondent had alleged that the revision petitioner was having a monthly income of ₹55,000/-, no material was produced before the court to prove the same. The revision petitioner contended that the revision petitioner was having

ailment. However, no material had been produced before the court to prove the same. The revision petitioner is an able bodied person. Therefore, he was having the capacity to maintain his wife.

Considering the entire facts and circumstances of the case, including the needs of the first respondent, the status of the parties and also taking into consideration of the probable income of the revision petitioner, the court below fixed the quantum of monthly maintenance at ₹2,000/-, which according to me, is not unreasonable or excessive. No circumstance has been brought to my notice to indicate that the order impugned is not legal, proper or correct, warranting interference by this Court.

In the result, the revision petition stands dismissed.

Sd/-

**B. SUDHEENDRA KUMAR
JUDGE**

Scl.

True Copy

PA to Judge