

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

WEDNESDAY, THE 28TH DAY OF OCTOBER 2015/6TH KARTHIKA, 1937

RPFC.No. 345 of 2015 ()

ORDER IN MC 694/2012 OF FAMILY COURT, THRISSUR DATED 05-03-2015

REVISION PETITIONER/RESPONDENT:

JOSEPH ABRAHAM @ SINOY, AGED 40 YEARS
S/O. ABRAHAM VARKEY, PULIKKUTHIYIL HOUSE,
RAJAPURAM P.O, MALAKKALLU, KASARAGOD DISTRICT,
PIN-671 532, REPRESENTED BY POWER OF ATTORNEY HOLDER,
ABRAHAM VARKEY.

NAME WRONGLY SHOWN AS JOSEPH ABRAHAM & BINOY IN THE CAUSE
TITLE OF JUDGMENT.

BY ADVS.SRI.ANIL KUMAR M.SIVARAMAN
SRI.P.P.VARUGHESE

RESPONDENTS/PETITIONERS:

1. GEORGINA JOSEPH, AGED 29 YEARS,
D/O. B.V. GEORGE, VETTUVELIL HOUSE,
KURICHIKKARA POST, THRISSUR TALUK, PIN-680 006.
2. MINOR JITHIN, AGED 6 YEARS,
3. MINOR NITHIN, AGED 2 YEARS,

(MINORS REPRESENTED BY MOTHER AND GUARDIAN 1ST RESPONDENT)

R1-R3 BY ADV. SRI.A.C.DEVY
R1-R3 BY ADV. SRI.K.D.BABU(KOTTACKAL)

THIS REV.PETITION(FAMILY COURT) HAVING COME UP FOR ADMISSION
ON 28-10-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

SCL.

B. SUDHEENDRA KUMAR, J.

R.P.(F.C.) No.345 of 2015

Dated this the 28th day of October, 2015

ORDER

The revision petitioner is the respondent in M.C.No.694 of 2012 on the files of the Family Court, Thrissur. The revision petitioner was directed by the Family court to pay an amount of ₹4,000/- to the first respondent, ₹3,000/- to the second respondent and ₹2,500/- to the third respondent towards their monthly maintenance. Aggrieved by the said order, this revision petition has been filed.

2. Heard both sides.

3. The status of the first respondent as the wife and other respondents as the children of the revision petitioner is not disputed.

4. The first respondent would contend that she was treated with cruelty by the revision petitioner after taking drugs and drinks. On 21.04.2012, she was compelled to leave the company of the revision petitioner due to the physical and

mental torture by the revision petitioner and thereafter, the respondents were not maintained by the revision petitioner. The first respondent is not having any employment or source of income. The revision petitioner is working in Qatar in Lee Machinery and Trading Company as Operations Manager, earning more than ₹6 lakhs per month as salary. He is also having quarry business, from which he is getting nearly ₹2 lakhs.

5. The revision petitioner filed counter refuting the contentions of the respondents herein. The revision petitioner would contend that he was prepared to maintain the respondents. However, the first respondent was not prepared to live along with the parents of the revision petitioner in the village of the revision petitioner. According to the revision petitioner, the first respondent left the company of the revision petitioner without any sufficient cause and hence, she is not entitled to get any maintenance from the revision petitioner. The revision petitioner would further contend that he is only a

Computer Operator in Lee Machinery and Trading Company in Qatar, earning only a salary of ₹1250 riyals per month. He has to maintain his aged parents also.

6. Before the court below, PW1 to PW4 were examined and Exts.P1 and P2 were marked for the respondents herein. RW1 to RW3 were examined and Ext. D1 was marked for the revision petitioner.

7. PW1 is the first respondent herein, who had given evidence supporting the contentions in the petition. PW2 to PW4 were examined by the respondents to prove that the revision petitioner used to treat the first respondent with cruelty and they used to intervene to settle the matter. RW1 is the revision petitioner. The revision petitioner examined RW2 and RW3 to prove that the cruelty was committed by the first respondent herein.

9. The court below, after evaluating the oral evidence adduced by the parties, came to the conclusion that the first respondent was forced to leave the company of the revision

petitioner on account of the cruelty meted out by the revision petitioner. It was admitted by RW1 that a criminal case filed against him under Section 498 A IPC. is pending before the jurisdictional magistrate court. The court below observed that it was difficult to believe that a mother of two children would opt to reside with her parents without any reasonable cause, particularly when she was not employed. The evidence on record would show that the first respondent went abroad twice to live with the revision petitioner. However, she was compelled to come back due to the cruel treatment by the revision petitioner.

10. Having gone through the relevant inputs, I am of the view that the finding of the court below, that the first respondent was forced to leave the company of the revision petitioner due to the cruelty meted out by the revision petitioner, does not warrant any interference by this Court.

11. The revision petitioner would contend that he is having only a monthly salary of ₹1250 Qatar Riyals. However,

the revision petitioner admitted that Ext.P1 was the visiting card of the revision petitioner. According to the revision petitioner, the revision petitioner was an executive in the same company as per Ext.P1 visiting card. However, thereafter, he was reverted to the lower post as a Computer Operator. However, no material was produced before the court below to show that he was reverted to the lower post as contended by the revision petitioner. There is no material before the court to indicate that the first respondent is having any source of income for her livelihood. The respondent Nos. 2 and 3 are school going minor children. The first respondent requires money for the education and other expenses of the minor children. Taking into consideration of the needs of the respondents, the status of the parties and the probable income of the revision petitioner, the court below directed the revision petitioner to pay monthly maintenance as stated above.

Having gone through the relevant inputs, I do not find anything to hold that the quantum of maintenance awarded by

the court below is excessive or unreasonable. In the said circumstances, I find no reason to interfere with the order impugned.

In the result, this RP(FC) stands dismissed.

Sd/-
B. SUDHEENDRA KUMAR
JUDGE

Scl/28.10.2015

True Copy

PA to Judge