

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

TUESDAY, THE 15TH DAY OF SEPTEMBER 2015/24TH BHADRA, 1937

RPFC.No. 85 of 2014

MC 78/2012 of FAMILY COURT, VADAKARA

REVISION PETITIONER/RESPONDENT:

RAJAN
S/O, UNNIKELU, AGED 49 YEARS
CHEJBRANGAL HOUSE, NEAR NIRMMANGAD TEMPLE
VILAYIL P.O., KUZHIMANNAM, MALAPPURAN DISTRICT.

BY ADVS.SRI.P.VENUGOPAL (1086/92)
SMT.T.J.MARIA GORETTI

RESPONDENT/PETITIONER:

SARASA
D/O. KELAPPAN, PUTHIYADATHIL HOUSE, VALLIKADU
P.O. MUTTUNGAL, VATAKARA TALUK
KOZHIKODE DISTRICT - 673 106.

BY ADV. SRI.C.R.SIVAKUMAR

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD ON
15-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

R.P.(F.C.)No.85 of 2014

Dated this the 15th day of September 2015

ORDER

The revision petitioner is the respondent in M.C. No.78 of 2012 on the files of the Family Court, Vatakara, who in this revision petition challenges the order passed by the court below directing the revision petitioner to pay a maintenance at Rs.3,000/- per month to the respondent herein.

2. Heard both sides.

3. The respondent herein would contend that the revision petitioner married the respondent on 4.11.2010 at Vilayil Nirmangad temple in accordance with the customary rites of the parties. After the marriage, she

started residing in the house of the revision petitioner. However, from the date of marriage onwards, the revision petitioner and his relatives started treating the respondent herein with cruelty demanding more gold ornaments. Ultimately, the respondent was taken to her home on 12.11.2010 by her relatives. Thereafter, the revision petitioner never maintained her.

4. The revision petitioner, on the other hand, would contend that the revision petitioner did not marry the respondent herein. There was a proposal for marriage. However, the respondent unilaterally withdrew from that proposal on the reason that the respondent had another better alliance.

5. Before the court below, PW1 to PW5 were examined and Exts.A1 to A10 were marked for the

respondent herein. RW1 was examined and Ext.B1 was marked for the revision petitioner. PW1 is the respondent herein. PW1 had given evidence in consonance with the contentions in the petition. She stated that her marriage with the revision petitioner was solemnised on 4.11.2010 at Vilayil Nirmangad temple.

6. In order to prove the marriage of the respondent herein with the revision petitioner, PW1 to PW5 were examined. PW2 is the brother of PW1, who supported the evidence of PW1 in all material aspects. PW3 is a neighbour, who claimed to have participated in the marriage. He also supported the evidence of PW1 and PW2 with regard to the marriage of the revision petitioner with the respondent. PW4 is the Investigating Officer, who conducted the investigation of the crime registered under

Section 498(A) of the Indian Penal Code on the basis of a complaint filed by the respondent herein and filed the final report before the Court. PW4 stated that he conducted the investigation of the above said case and he was convinced during the investigation that the revision petitioner married the respondent herein. PW5 is the Managing Trustee of Vilayil Nirmangad temple. He stated that he produced the counter foil of the receipt book evidencing the marriage of Rajan, to the police officer, who in turn, after verification returned the same to PW5. The court below appreciated the oral evidence of PW1 to PW5 and RW1 and also the documentary evidence, and came to the conclusion that the evidence on record would prove that the revision petitioner married the respondent herein. Even though the revision petitioner contended that he did not marry the respondent,

no material, apart from the evidence of RW1, is available before the court to prove the contention of the counter petitioner. In the absence of any convincing material from the side of the revision petitioner, the court below correctly accepted the evidence of the respondent herein, to hold that the revision petitioner married the respondent on 4.11.2010 in accordance with their customary rites. Having gone through the relevant inputs, I find no reason to interfere with the order impugned, particularly when no material has been placed before me to indicate that the order impugned is not legal, proper or correct.

7. The respondent would contend that the respondent is not having any avocation or source of income to maintain herself. According to the respondent, the revision petitioner is a merchant getting Rs.10,000/- per month as

profit. He is also having landed properties, from which he is getting Rs.3,000/- per month as income. However, there is absolutely no evidence before the court in respect of the income of the revision petitioner apart from the admission of the revision petitioner that he is an agricultural labourer getting Rs.25,000/- per annum as income. The court below rightly disbelieved the said evidence of RW1. It was observed by the court below that even a manual labourer would get atleast Rs.500/- per day as wages. Taking into consideration of all the aspects, including the status of the parties, the court below correctly found that the respondent herein is not having any source of income for her maintenance. The court below after appreciating the evidence directed the revision petitioner to give maintenance at the rate of Rs.3,000/- per month to the

respondent herein. Having gone through the relevant inputs, I find no reason to hold that the order impugned is not legal, proper or correct warranting interference by this court.

In the result, this revision petition stands dismissed.

Sd//

**B.SUDHEENDRA KUMAR,
JUDGE.**

dl

/ True copy /

PA to Judge