

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR

FRIDAY, THE 23RD DAY OF JANUARY 2015/3RD MAGHA, 1936

RPFC.No. 427 of 2014 ()

AGAINST THE ORDER DATED 7.1.2014 IN CMP.16/2011 IN MC449/2001 OF THE
FAMILY COURT, KOLLAM.

PETITIONER(S)RESPONDENT IN CMP 16/2011 AND MC 449/2001:

MAJEED KUTTY
S/O ABDUL RAHMAN, MUNNA MANZIL, KANJIRAMKUZHI
PERINAD (P.O), KOLLAM.

BY ADV. SRI.C.UNNIKRISHNAN (KOLLAM)

RESPONDENT(S)/STATE AND IST PETITIONER IN CMP 16/2011 AND MC
449/2001.:

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1. STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-682031.
 2. SHAHUBANATH, AGED 27 YEARS
D/O ASUMABEVI, VATTAVILA VEEDU, PERUR
KARICODE (P.O), KOLLAM-686001.
- R2 BY ADV. SRI.C.R.SIVAKUMAR
R2 BY ADV. SRI.PRATHAP PILLAI
R1 BY PUBLIC PROSECUTOR SMT.M.MADHUBEN

THIS REV.PETITION(FAMILY COURT) HAVING COME UP FOR ADMISSION ON
23-01-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.P.(FC).427/14

APPENDIX

PETITIONER'S EXHIBITS:

ANNEXURE A1: CERTIFIED COPY OF THE ORDER DATED 18.1.2002 IN MC.449/2001 OF THE FAMILY COURT, KOLLAM.

ANNEXURE A2: TRUE COPY OF THE OBJECTION FILED BY THE PETITIONER.

ANNEXURE A3: CERTIFIED COPY OF THE ORDER DATED 7.1.2014 IN CMP.16/2011 IN MC.449/2001 OF THE FAMILY COURT, KOLLAM.

ANNEXURE A4: TRUE COPY OF THE APPLICATION FILED BY THE PETITIONER AND REPLY TO THE SAME.

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

P.A.TO JUDGE

C.T. RAVIKUMAR, J.

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R.P.(FC). No.427 OF 2014

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Dated this the 23rd day of January, 2015

ORDER

This revision petition is filed against order dated 7.1.2014 in C.M.P.No.16 of 2011 in M.C.No.449 of 2001 passed by the Family Court, Kollam. The second respondent wife filed the M.C under section 125 of the Code of Criminal Procedure claiming maintenance from the revision petitioner herein and as per Annexure-A1 order dated 18.1.2002, the revision petitioner herein was directed to pay an amount of ₹1000/- to the second respondent and ₹500/- each to the two minor children born in the said wedlock. Later, C.M.P.No.16 of 2011 was filed by the respondent herein under section 127 Cr.P.C for enhancement of the rate of maintenance allowed as per order dated 18.1.2002. After serving notice on the revision petitioner and taking evidence, the Family Court evaluated the evidence and found that the

rate of maintenance ordered as per order dated 18.1.2002 requires an enhancement. Consequently, taking into account the attending circumstances and the change in the circumstances, the revision petitioner was directed to pay monthly maintenance at the rate of ₹2000/- each to the respondent and the two children. This revision petition has been filed against the said order.

2. On 24.11.2014, taking note of the submission made by the learned counsel for the revision petitioner that there is a chance for an amicable settlement of the issues, the parties were sent for mediation. After mediation it is reported that the matter has been settled and the memorandum of settlement is also filed this case. Conditions therein read as follows:-

1. Petitioner agrees to pay maintenance to the 2nd respondent and two children namely Muhazin S. Majeed and Muhazina S.Majeed at the rate of Rs.2000/- each per month (Total Rs.6000/- to wife and two children) as ordered in CMP.No.16/2011 in

M.C.No.449/2001 of Family Court, Kollam towards the settlement of the above case.

2. The parties agree that they will not interfere in the peaceful life of each other as part of this settlement.
3. The petitioner states that 1st respondent is only a formal party and no relief is claimed against that respondent.

3. A bare perusal of the first condition and the order dated 7.1.2014 passed by the Family Court would reveal that they are virtually one and the same. As noticed hereinbefore, as per the impugned order, the Family court ordered the revision petitioner to pay enhanced maintenance at the rate of ₹2000/- each to the wife and children and thus the amount payable by the petitioner towards maintenance is ₹6000/-. The first condition would reveal that the petitioner has agreed to pay maintenance to the wife and two children at the rate of ₹2000 each. The second condition incorporated thereunder would reveal that the parties have agreed that they would not interfere with the peaceful life of each other. In such

circumstances, I do not find any reason to set aside the impugned order and virtually, a perusal of the conditions incorporated in the memorandum of settlement would reveal that the revision petitioner has agreed only to comply with the directions in the order in C.M.P.No.16 of 2011 in M.C.No.449 of 2001 of Family Court, Kollam. In such circumstances, the order in C.M.P.No.16 of 2011 in M.C.No.449 of 2001 cannot be interfered with as the revision petitioner has agreed only to comply with the said condition. In the circumstances, recording the factum of settlement of the issues and the other conditions recorded hereinbefore, this revision petition is dismissed confirming the order passed by the Family Court directing the respondent therein/revision petitioner herein to pay maintenance at the enhanced rate of ₹2000/- to each of the petitioners in the M.C.

Sd/-
C.T. RAVIKUMAR
(JUDGE)

spc/

C.T. RAVIKUMAR, J.

JUDGMENT

September, 2010