IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE K. BABU

FRIDAY, THE 30TH DAY OF JULY 2024 / 4TH SRAVANA, 1946

RPFC NO. 515 OF 2018

AGAINST THE ORDER/JUDGMENT DATED 14.11.2014 IN MC NO.422 OF 2012 OF FAMILY COURT, PALAKKAD

REVISION PETITIONER/S:

KALADHARAN,
AGED 49 YEARS
S/O MAYANDI, KARIKULAM,VILAYODI P.O., CHITTUR, PALAKKAD DISTRICT-678 103.
BY ADV V.A.JOHNSON (VARIKKAPPALLIL)

RESPONDENT/S:

1 **KAVITHA,**
AGED 46 YEARS
W/O KALADHARAN, SUPREME ROAD LINES, GOWRI GANESH BUILDINGS, MANGALAPURAM, PIN - 575 006.

2 **JAYASURYAN**
AGED 16 YEARS (MINOR), S/O .KALADHARAN,
(MINOR ,REPRESENTED BY GUARDIAN, MOTHER THE IST PETITIONER KAVITHA).
BY ADV PREMCHAND R.NAIR

THIS REV.PETITION(FAMILY COURT) HAVING COME UP FOR ADMISSION ON 30.07.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BABU, J

R.P.(F.C) No.515 of 2018

Dated this the 30th day of July, 2024

O R D E R

The Revision Petitioner is the respondent in M.C.No.422 of 2012 on the file of the Family Court, Palakkad, a petition filed under Section 125(1) of the Crl.P.C.. He is the husband of respondent No.1 herein. Respondent No.2 is the son born to the parties in the wedlock.

2. The marriage between the revision petitioner and respondent No.1 was solemnized on 11.02.1996 as per their religious rites and customs. They lived together as husband and wife.

3. Respondent No.1 instituted the maintenance case contending that the revision petitioner ill-treated her

and thereafter deserted her and the child. They are living separately.

4. In the maintenance case, respondent No.1 pleaded that she is not able to maintain herself and her son. She further pleaded that the revision petitioner is working in a company earning Rs.20,000/- per month.

5. The revision petitioner appeared before the trial Court. The trial Court directed him to pay interim maintenance. He refused to pay the interim maintenance awarded by the trial Court. Therefore, the Court, as per order in CMP No.180/2014, struck off his defence.

6. Respondent No.1 gave evidence as PW1. She stated in tune with the pleadings in the petition. The trial Court directed the revision petitioner to pay monthly maintenance @ Rs.3,000/- to respondent No.1 and @ Rs.2000/- to respondent No.2 from 01.11.2012 onwards.

7. I have heard the learned counsel for the revision petitioner. The learned counsel for the revision

petitioner submitted that no sufficient opportunity was given to him to contest the case. It is further submitted that the revision petitioner is a coolie and so the amount awarded by the trial Court is exorbitant. It is further submitted that the revision petitioner has no means to pay the maintenance.

8. The pleadings of respondent No.1 remained unrefuted. She gave evidence in support of her pleadings. In the absence of any contra evidence, this Court finds no reason to interfere with impugned order.

9. The order impugned stands confirmed.

10. The learned counsel for the revision petitioner submitted that the circumstances that existed at the time of passing the impugned order have changed. The revision petitioner has now become jobless and he is not in a position to continue paying the maintenance awarded. It is further submitted that he is entitled to modification of the order in view of the change in

circumstances and that he is intending to file an application under Section 146 of the BNSS.

11. Needless to say that if the petitioner makes an application under Section 146 of the BNSS, he is at liberty to raise all contentions in support of his claim seeking modification of the Award.

12. The learned counsel for the revision petitioner further submitted that during the pendency of this revision petition, the revision petitioner had remitted Rs.80,000/- towards the arrears of maintenance. The arrears of maintenance due to the revision petitioner as on this date would come to around Rupees Seven Lakhs. It is submitted that the revision petitioner is not in a position to pay the entire amount in a lump sum.

13. Having considered the entire circumstances, the following directions are issued:-

(1) The revision petitioner shall pay Rs.1,00,000/- (Rupees One Lakh only)

towards arrears of maintenance to the respondents within a period of one month from this date.

(2) The revision petitioner shall also pay the remaining arrears of maintenance in ten equal monthly instalments. The first instalment shall be paid on or before 15.09.2024 and the subsequent instalments shall be paid on or before 15th day of every succeeding month. Needless to say that the revision petitioner shall pay the regular monthly maintenance without any default.

(3) The coercive steps initiated against the petitioner shall be kept in abeyance for facilitating him to pay the amount as directed. If the petitioner makes default in making the payment as directed above, the

trial Court is at liberty to proceed against him, in accordance with law.

The Revision Petition is disposed of accordingly.

Sd/-
K.BABU JUDGE

kkj