

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.UBAID

TUESDAY ,THE 27TH DAY OF NOVEMBER 2018 / 6TH AGRAHAYANA, 1940

RPFC.No. 26 of 2012

AGAINST THE ORDER IN MC 227/2008 of FAMILY COURT,ERNAKULAM

REVISION PETITIONER/RESPONDENT:

NOUSHED K.K., S/O.KUNJEEN,  
AGED 40 YEARS, KAROTTAKATTIL VEEDU,  
THOTTAKKATTU KARA,  
ALUVA TALUK.

BY ADV. SRI.NIREESH MATHEW

RESPONDENT/PETITIONERS IN MC 227/2008:

1. SHAMEENA T.A.M AGED 35 YEARS,  
W/O.NOUSHED, 196 H/25,  
AKG ROAD, VELLACKAL LANE,  
PUTHUPALLIPRAM KARA,  
EDAPPALLY P.O,  
COCHIN - 24.
2. SAAD NOUSHED, AGED 7 YEARS,  
S/O.SHAMEENA, 196 H/25,  
AKG ROAD, VELLACKAL LANE,  
PUTHUPALLIPRAM KARA,  
EDAPPALLY P.O,  
COCHIN - 24.
3. NASHITA NOUSHED, AGED 5 YEARS,  
D/O.SHAMEENA RESIDIING AT 196 H/25,  
AKG ROAD, VELLACKAL LANE,  
PUTHUPALLIPRAM KARA,  
EDAPPALLY P.O, COCHIN - 24.

BY ADV. SMT.SARAH SALVY

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD ON  
27.11.2018, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER

The revision petitioner herein is aggrieved by the order of the Family Court, Ernakulam, under Section 125 Cr.P.C. in M.C. No. 227 of 2008 awarding maintenance to his minor children at the rate of Rs.3,500/- each per month. When they brought claim in 2008, they were aged 7 years and 5 years respectively. The wife did not claim any maintenance. The trial court recorded evidence on both sides, and also examined the means of the revision petitioner, and the needs and necessities of the children, including their educational expenses. On a consideration of the various aspects, including the requirements of the children, the trial court awarded ₹3,500/- each per month as maintenance. The order under challenge was passed on 11.10.2011. In 2014, the children brought another application through their mother under Section 127 Cr.P.C for enhancement in the rate of maintenance. In the said proceeding, their father remained ex parte. Accepting the case

of the children in toto, the trial court passed orders in the said proceeding enhancing the rate of maintenance to ₹15,000/- each per month. The said order dated 11.11.2015 is under challenge in O.P(Cr1) 569/2016 brought by the father. That original petition will be heard and decided separately on merits. As regards the first order passed under Section Section 125 Cr.P.C in M.C 227/2008, I find no scope for interference in revision. Now the first child must be aged 17 years and the second child must be aged 15 years. Their requirements including the educational expenses and other incidental expenses will have to be considered by the court in fixing the amount of maintenance. The trial court fixed the amount of maintenance after considering the entire aspects including the revision petitioner's job and income. The propriety of the enhancement made by the trial court under Section 127 Cr.P.C later will be examined and decided in O.P (cr1) 569/2016. As regards the rate of maintenance awarded initially

under Section 12 Cr.P.C, I find that the amount is quite reasonable. I find no scope for interference in the quantum of maintenance.

In the result, the revision petition is dismissed.

ma

Sd/-  
P.UBAID  
JUDGE

/True copy/ P.S to Judge