



RPFC NO. 221 OF 2021

1

"C.R."

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

MONDAY, THE 15TH DAY OF SEPTEMBER 2025 / 24TH BHADRA, 1947

RPFC NO. 221 OF 2021

AGAINST THE ORDER DATED 23.11.2020 IN MC NO.253 OF 2018 OF
FAMILY COURT, MALAPPURAM

REVISION PETITIONER/PETITIONER:

JUBAIRIYA
AGED 39 YEARS, D/O.MUHAMMED,
NEDIYODATH HOUSE, PONNYAMKURSSI POST,
PERINTHALMANNA TALUK,
MALAPPURAM DISTRICT-679322.

BY ADV SHRI.E.C.AHAMED FAZIL

RESPONDENT/RESPONDENT:

SAIDALAVI N
AGED 46 YEARS, S/O.BIYYUMMA,
NARIMADAKKAL HOUSE, KUMBUDI POST,
KUTTIPURAM VIA, PALAKKAD DISTRICT-679553.

BY ADVS.
SRI.K.RAJESH KANNAN
SMT.SEETHA.P
SHRI.AJITH C.R.



2025:KER:68937

RPFC NO. 221 OF 2021

2

THIS REV.PETITION(FAMILY COURT) HAVING COME UP FOR
ADMISSION ON 15.09.2025, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

**“C.R.”****P.V. KUNHIKRISHNAN, J.****R.P.F.C. No.221 of 2021****Dated this the 15th day of September, 2025****ORDER**

‘Jubairiya’ filed a petition under Section 125 of the Code of Criminal Procedure, 1973 (for short, Cr.P.C.) against ‘Saidalavi N.’, who is her husband, claiming maintenance. Saidalavi is a blind man. According to ‘Jubairiya’, ‘Saidalavi’ survives by begging, and she seeks a share of the income that her husband earns from begging. There is a Malayalam phrase that says, “പിച്ചച്ചട്ടിയിൽ കയ്യിട്ടുവാരുത്,” which means: “Don’t put your hand into a begging bowl”. But, it is to be remembered that ‘Saidalavi’ is also not a saint. Even though he is blind and a beggar, as stated by ‘Jubairiya’, who is his second wife, (his first wife is also alive) ‘Saidalavi’ has been threatening Jubairiya that he will soon enter into a third marriage with another lady. I do not want to make any further observations



about the same at this stage.

2. The Family Court, as per the impugned order, rejected the claim of 'Jubairiya' for maintenance from 'Saidalavi', and they are the revision petitioner and respondent in this revision. Aggrieved by the denial of maintenance to her, 'Jubairiya' filed this revision petition.

3. Heard the learned counsel for the revision petitioner and the learned counsel for the respondent.

4. This Court perused the petition filed by the revision petitioner before the Family Court. In Column No. 10 of the petition filed under Section 125 CrPC, it is clearly stated that the respondent is getting income by begging on Fridays in front of the mosque. It is also stated in it that the respondent is a blind man. He is paying the electricity and water bills of others and earning some income on that count as well. It is stated that the respondent is receiving Rs. 25,000/- from various sources, including begging, and therefore, the petitioner requires Rs. 10,000/- as maintenance.

5. The respondent filed a counter-affidavit before the family court denying the averments in the petition. But he



admits that he is blind and his livelihood is the income from begging and the helping hands of his neighbours. After filing the counter, the respondent did not appear. Therefore, the Family Court set the respondent as *ex parte*. Thereafter, the petitioner filed a chief affidavit. After going through the same, the Family Court found that the petitioner is not entitled to maintenance because a beggar cannot be directed to pay maintenance. Aggrieved by the same, this revision petition is filed.

6. This Court called for the Trial Court Records and perused the same. According to the petitioner, when the respondent married the petitioner, it was his second marriage. There is cruelty on the side of the respondent. It is also the case of the petitioner that the respondent threatened to pronounce Talaq on the petitioner, and he wishes to marry again. As far as the petitioner is concerned, it is also her second marriage to the respondent.

7. As mentioned by the Family Court, no court can direct a beggar to pay maintenance to his wife when the wife admits that her husband is a beggar. Admittedly, the petitioner



married the respondent knowing fully well that he is blind, he has no income, and one of his sources of income is begging. I cannot digest the contention of the petitioner that the blind man is assaulting the petitioner, and therefore, she is living separately. How a blind man can assault a wife who is not blind is thought-provoking. The cruelty may be in different ways, like mental, physical, etc. However, the petitioner contends that the respondent assaults her whenever he visits the petitioner's house. As I mentioned earlier, a blind man assaulting a lady who is not blind will not usually happen unless she surrenders to the assault of the blind man. Therefore, I am not able to accept the contention of the petitioner that she was assaulted by the respondent. Therefore, there is nothing to interfere with the impugned order

8. But this court cannot stop there by confirming the impugned order in the peculiar facts and circumstances of this case. Courts are not Robots. Human beings sit in courts as judges. The court cannot shut its eyes to the facts in this case. The respondent is admittedly blind. This is his second



marriage, while his first wife is alive. The petitioner in her affidavit says that the respondent used to stay with his first wife, also. In addition to that, the affidavit of the petitioner is that the respondent is going to marry again after pronouncing Talaq to the petitioner. He is blind and admittedly a beggar. Admittedly, the respondent belongs to the Muslim Community, and he is taking the benefit of his customary law, which, according to him, allows him to marry twice or thrice. A person who has no capacity to maintain a second or third wife cannot marry again, even as per the customary law of Muslims. According to the petitioner, the respondent is going to marry again. Admittedly, the respondent married the petitioner when his first wife was alive and the marital relationship with the first wife was in existence. I am of the considered opinion that his successive marriage, when he was only a beggar, cannot be accepted at all, even as per the customary law of Muslims. These types of marriages happen in the Muslim community because of the lack of education, lack of knowledge of the customary law of Muslims, etc. A court of law cannot simply recognise the first, second or third marriage of a



Muslim man when he has no capacity to maintain his wives, and one of the wives approached the court with a petition under Section 125 Cr.P.C. claiming maintenance. Proper counselling is necessary for these types of persons. This Court must also consider the plight of the petitioner, who is the second wife of the respondent, as well as his first wife. The respondent married the petitioner, likely due to a misunderstanding of Muslim law.

9. There is a misconception that a Muslim man can marry more than one woman in all situations if he wishes to do so.

Quran Chapter 4, verse 3 reads like this:

“(3) And if you fear that you will not deal justly with the orphan girls, then marry those that please you of [other] women, two or three or four. But if you fear that you will not be just, then [marry only] one or those your right hand possesses. That is more suitable that you may not incline [to injustice].”

Quran Chapter 4, verse 129 reads like this:

“(129) And you will never be able to be equal [in feeling] between wives, even if you should strive [to do so]. So do not incline completely [toward one] and leave another hanging. And if you amend [your



affairs] and fear Allah-then indeed, Allah is ever Forgiving and Merciful.” *(Relied on the English translation of Sri Mohammed Azad)*

10. The spirit and intention of these verses is monogamy, and polygamy is only an exception. The Holy Quran greatly stresses ‘justice’. If a Muslim man can give justice to his first wife, second wife, third wife and fourth wife, then only marriage more than once is permissible. The majority of the people in the muslim community are followers of Monogamy, even if they have the wealth to maintain more than one wife. That is the true spirit of the Holy Quran also. The small minority among the muslim community who are following polygamy, forgetting the verses of the Holy Quran, are to be educated by the religious leaders and society.

11. Here is a case where a blind man is begging for his livelihood. Begging is not recognised in our State. It is the duty of the State, society, and the court to ensure that no one goes begging for a livelihood, and the State has the duty, at least, to provide food and clothing to such a person. The destitute wife of such a person should also be protected by the



State through appropriate measures. The society is always praying to God almighty to see that they are provided with food and clothing. The birthday and samadhi day of Great Sree Narayana Guru is in September this year. While the birthday has passed, the samadhi day will be observed on September 21, 2025. At this juncture, the famous words of Sree Narayana Guru in "ദൈവദശകം" (daivadasakam) are to be remembered. Daivadasakam is a collection of ten verses on God. In other words, it is a universal prayer which does not refer to a specific deity but a universal concept of God based on 'Advaita philosophy'. One of the verses reads like this:

"അന്നവസ്ത്രാദി മുട്ടാതെ
തന്നു രക്ഷിച്ചു ഞങ്ങളെ
ധന്യരാക്കുന്ന നീയൊന്നു-
തന്നെ ഞങ്ങൾക്കു തമ്പുരാൻ."

(English Translation:-

Food, clothes and all else we need
You give us unceasingly.
Ever saving us, seeing us well provided.
Such a one, You, are of us our only Chief.)



12. Every believer is chanting this slogan of Sree Narayana Guru. It is the Bible of every Malayali, whether they believe in God or not. The State has a duty to see that if a blind man is begging for his livelihood, he is protected. It is also the duty of the State to see that if a blind man who is begging in front of the mosque and who belongs to the Muslim community is marrying one after another without even having knowledge of the fundamental principles of Muslim customary law, he is counselled appropriately. Appropriate counselling should be given to such a person by the authorities of the State. It is the duty of the state to protect the destitute wives who are the victims of polygamy in the Muslim community. It is the duty of the elected government in a democratic country to ensure that its citizens do not beg. The government may not always be aware of individual cases of begging, and therefore, this court cannot blame the government. But when the same is brought to the notice of this Court, even in a case coming before this Court in a different context, it is the duty of this Court to bring to the notice of the Department concerned of the State Government to see that the Government protects such a



person in accordance with law. Appropriate counselling should be given to the respondent to avoid another marriage by him, resulting in another woman being left as a destitute wife. The Department concerned of the government should provide counselling to the respondent, assisted by competent counsellors, including religious leaders. The State should, if possible, reunite the petitioner and the respondent, which would be a feather in the cap of a democratic government. The interest of the first wife of the respondent should also be protected. In such circumstances, I am of the considered opinion that a copy of this order should be given to the Secretary, Social Welfare Department, State of Kerala, for taking appropriate action in accordance with law. But as far as the impugned order is concerned, as observed by the Family Court, I am of the considered opinion that this Court cannot direct a beggar to pay maintenance to his wife. However, the government should ensure that the petitioner's wives are also provided with food and clothing.

With the observation, this revision petition is disposed of in the following manner:



1. The order dated 23.11.2020 in MC No.253/2018 of the Family Court, Malappuram, is confirmed.
2. The Registry will forward a copy of this order to the Secretary, Social Welfare Department, State of Kerala, forthwith.

sd/-
P.V.KUNHIKRISHNAN
JUDGE