

R.P.(F.C.) No. 375 of 2025

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

TUESDAY, THE 4TH DAY OF NOVEMBER 2025 / 13TH KARTHIKA, 1947

RPEC NO. 375 OF 2025

AGAINST THE ORDER DATED 19.07.2025 IN MC NO.229 OF 2022 OF
FAMILY COURT, TIRUR

REVISION PETITIONER/RESPONDENT:

FAROOKH
AGED 42 YEARS, S/O. USMAN,
KOYALIKKANAKATH HOUSE,
PALAPPETTY POST, VELIYAMKODE,
MALAPPURAM DISTRICT, PIN - 676307

BY ADVS.
SRI.JAMSHEED HAFIZ
SMT.T.S.SREEKUTTY

RESPONDENT/PETITIONER:

KAYYAKKUTTY@ KADEEJA
AGED 60 YEARS, W/O. USMAN
KOYALIKKANAKATH HOUSE,
PONNANI AMSOM DESOM, P.O.
PONNANI SOUTH,
MALAPPURAM, PIN - 679586

THIS REV.PETITION(FAMILY COURT) HAVING COME UP FOR
ADMISSION ON 04.11.2025, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

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ORDER

"C.R."

This revision petition has been filed challenging the order dated 19.07.2025 in M.C.No. 229 of 2022 passed by the Family Court, Tirur, under Section 125 of Cr.P.C.

2. The petitioner is the son of the respondent. The respondent filed a maintenance case against the petitioner, claiming maintenance at the rate of Rs. 25,000/- per month under Section 125 of Cr.P.C. The Family Court, after trial, granted maintenance at the rate of Rs. 5,000/- (Rupees Five Thousand only) per month. The said order is under challenge in this revision petition.

3. I have heard both sides.

4. The respondent is 60 years old. Her husband is alive. In the petition for maintenance, the respondent has clearly stated that she has no employment or means to support herself. The petitioner denied this and argued that the respondent is rearing cattle and earning enough income. It is further contended that RW1, who is the respondent's

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husband, is a fisherman owning a boat and is providing maintenance to her. The petitioner has also taken up a contention that he has to maintain his wife and child.

5. It is not disputed; rather, it has come out in evidence that the petitioner is employed in the Gulf and has sufficient means to maintain the respondent. The learned counsel for the petitioner, relying on the evidence of RW1, argued that the husband of the respondent, who is a fisherman and fishes in his own boat, provides maintenance to the respondent; hence, the claim for maintenance against the petitioner is not legally sustainable.

6. Section 144 of BNSS (Section 125 of Cr.P.C) is a measure of social justice, especially enacted to protect women, children and aged parents and falls within the constitutional scheme of Article 15(3) reinforced by Article 39. Under this provision, any person having sufficient means is liable to maintain his wife if she is unable to support herself or his legitimate or illegitimate minor child, whether married

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or not, unable to maintain itself, or his legitimate/illegitimate child (not being a married daughter) who has attained majority, where such child is, by reason of any physical or mental abnormality or injury unable to maintain itself, or his father or mother, unable to maintain himself or herself. The object of the provision being one to achieve social justice for the marginalised members of society – destitute wives, hapless children, and parents, it is to be construed liberally for the welfare and benefit of the wife, children and parents.

7. Filial duty towards an aged parent involves providing physical, emotional and financial support, which is both a moral and legal obligation. Section 144(1)(d) of BNSS (Section 125(1)(d) of Cr.P.C.) specifically casts an obligation to the children having sufficient means to maintain their father or mother, unable to maintain himself or herself. The scheme under Section 144 of BNSS (Section 125 of Cr.P.C.) contemplates that the right of a mother/wife to be maintained by her children under Section 144(1)(d) of BNSS (Section 125(1)(d) of Cr.P.C.) and by her husband under

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Section 144(1)(a) of BNSS (Section 125(1)(a) of Cr.P.C.) are independent and mutually exclusive. In other words, the right of a woman to claim maintenance from her son or daughter is independent of her husband's obligation to maintain her. A mother can claim maintenance from her children even if her husband is maintaining her, and the son can be legally required to contribute if the mother is unable to maintain herself and the husband is not providing sufficient support. The fact that the husband of a woman has sufficient means and provides maintenance to her would not absolve the son of his independent statutory obligation under Section 144(1) (d) of BNSS (Section 125(1)(d) of Cr.P.C.) to support his mother if she needs it. Therefore, the contention that since the husband of the respondent provides maintenance to the respondent, she cannot claim maintenance from the petitioner will not stand. That apart, the Family Court, after evaluating the evidence, found that the evidence of RW1 that he is providing maintenance to the respondent cannot be believed. I see no reason to take a different view.

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8. The next contention of the petitioner that the respondent is rearing cattle and is getting sufficient income from it to support her must be rejected outright. It is quite unfortunate and inappropriate for an affluent son to tell his aged mother that she should go to cattle rearing to earn her livelihood. Cattle rearing is a physically demanding work. Expecting a sexagenarian mother to perform such labour highlights significant moral failure on the part of the son and disregard for the mother's well-being and dignity. This scenario typically implies a lack of care, support, and respect for an elderly parent who likely depends on or deserves the support of her wealthy child. That apart, there is absolutely no evidence to prove that the respondent is engaged in cattle rearing. The respondent gave positive evidence that she has no job, employment or source of income. The petitioner did not even enter into the box to deny the same. Yet another contention of the petitioner that he has to maintain his wife and child is also equally untenable. A son cannot escape from the liability to maintain his aged parents merely because he

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is married and has a family.

9. The definite case of the respondent is that the petitioner is earning Rs. 2,00,000/- (Rupees Two Lakhs only) per month. Though the petitioner has denied the same, he has not produced any documentary evidence to show his actual income. Considering the requirement of the respondent and the means of the petitioner, the maintenance of Rs. 5,000/- (Rupees Five thousand only) awarded by the Family Court appears to be absolutely reasonable, if not inadequate.

I find no merit in this revision petition. Accordingly, it is dismissed.

Sd/-

DR. KAUSER EDAPPAGATH
JUDGE

APA