**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT**

**THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH**

**WEDNESDAY, THE 26TH DAY OF NOVEMBER 2025/5TH AGRAHAYANA, 1947**

**RPFC NO. 310 OF 2018**

**AGAINST THE ORDER DATED 10.05.2018 IN MC NO.89 OF 2017 OF FAMILY COURT, NEDUMANGAD**

**REVISION PETITIONER/COUNTER PETITIONER:**

**RATHEESH CHANDRAN**
**AGED 39 YEARS, S/O PUSHPANGADAPANICKER, KALLUVETTANKUZHY HOUSE, HOUSE NO:8/15 C, ARUKANI, ARUKANI DESOM, KADAYALUMOODU POST, KALIYAL VILLAGE, VILAVANCODE TALUK, KANYAKUMARI DISRICT, NOW SERVING AS STORE MAN IN CENTRAL RESERVE POLICE FORCE, GROUP CENTRE, AVADI, CHENNNAI, PIN-600065.**

**SRI.AJIT G ANJARLEKAR**
**SRI.GOVIND PADMANAABHAN**
**SRI.G.P.SHINOD**

**RESPONDENTS/PETITIONERS:**

1 **REMA DEVI S**
**AGED 35 YEARS, W/O.RATHEESH CHANDRAN, RAJESH BHAVAN, KEZHMOONGODU, THEKKUPARA POST, VELLARADA VILLAGE, NEYYATTINKARA TALUK, THIRUVANANTHAPURAM DISTRICT-695505.**

2 **ANAMIKA**
**AGED 4 1/2 YEARS(MINOR), D/O.RATHEESH CHANDRAN, RAJESH BHAVAN, KEEZHMOONGODU, THEKKUPARA POST, VELLARADA VILLAGE, NEYYATTINKARA TALUK, THIRUVANANTHAPURAM DISTRICT-695505.**
**REPRESENTED BY HER MOTHER, THE 1ST RESPONDENT AND NATURAL GUARDIAN.**

**BY ADV SRI.R.B.RAJESH**

**THIS REV.PETITION(FAMILY COURT) HAVING COME UP FOR HEARING ON 26.11.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**“C.R.”**

**O R D E R**

Can a wife be denied maintenance if she is well-qualified and capable of earning but not working? – This is the main point raised for consideration in this Revision Petition.

2. The petitioner is the husband of the first respondent and the father of the second respondent. The respondents filed M.C. No.89/2017 under Section 125(1) of Cr.P.C. against the petitioner before the Family Court, Nedumangad, claiming maintenance at the rate of Rs 15,000/- and Rs 7,000/- respectively. The petitioner resisted the claim mainly on two grounds: (i) the first respondent is a well-qualified teacher by profession and has sufficient means to maintain herself, and (ii) the first respondent left the company of the petitioner without any valid reason and hence she is not entitled to claim maintenance. The Family Court repelled those contentions and granted monthly maintenance at the rate of Rs 6,000/- and Rs 4,500/- respectively to the respondents. This revision petition has

been filed by the petitioner challenging the said order.

3. I have heard Sri.Ajit G. Anjarlekar, the learned counsel for the petitioner, and Sri.R.B. Rajesh, the learned counsel for the respondents.

4. The marital relationship and the paternity of the child are not in dispute. It is also not disputed that the first respondent, along with the second respondent, is living separately from the petitioner. A separated life of a wife for a valid cause is recognised by law, and that will not stand in the way of raising a claim for maintenance under Section 125 of Cr.P.C (Section 144 of BNSS). According to the first respondent, there is sufficient cause for her to reside separately from the petitioner. It has come out in evidence that the brother and wife of the petitioner started to reside in the house constructed by the petitioner. The Family Court found it sufficient ground to justify the first respondent to live separately from the petitioner. I see no reason to take a different view.

5. The petitioner is admittedly working as a Store Manager

and earns Rs. 66,900/- per month and thus has sufficient means to maintain the respondents. He contended that the first respondent is working as a teacher at Nurul Huda Public School, drawing a monthly salary of Rs. 20,000/- and able to maintain herself. However, no evidence has been adduced to prove the said contention.

6. The first respondent is admittedly a graduate in Education (B.Ed) and a postgraduate in Arts (M.A). The learned counsel for the petitioner vehemently argued that even if it is assumed that the first respondent does not have a job, she is a well-educated lady having qualifications of M.A. and B.Ed. and thus can secure a decent job to earn a livelihood. According to the learned counsel, an educated lady who is capable of earning to maintain herself, sitting idle only to see that her husband provides maintenance to her, is not entitled to maintenance. Reliance was placed on the recent decision of the Delhi High Court in **Megha Khetrapal v. Rajat Kapoor** (2025 SCC OnLine Del 1688).

7. As per Section 125 of Cr.P.C. (Section 144 of BNSS), the husband who has sufficient means is liable to provide maintenance to the wife who is unable to maintain herself. The meaning of the expression 'unable to maintain herself' in Section 125 of Cr.P.C. (Section 144 of BNSS) came up for consideration before the Supreme Court many times. In **Rajnesh v. Neha and Another** [(2021) 2 SCC 324], the Supreme Court has held that even if the wife is earning, it cannot operate as a bar from being awarded maintenance by the husband. It was further held that the court has to determine whether the income of the wife is sufficient to enable her to maintain herself in accordance with the lifestyle to which she was accustomed to in the husband's house. The difference between 'capable of earning' and 'actual earning' has been highlighted clearly in **Shailja & Another v. Khobbanna** [(2018) 12 SCC 199], wherein it was held that a wife who is capable of earning could not be barred from claiming maintenance. It was also held that merely because the wife is capable of earning, it would

not be sufficient ground to reduce the maintenance awarded by the Family Court. In **Dr.Swapan Kumar Banarjee v. State of West Bengal and Another** [(2020) 19 SCC 342], it was held that in the absence of sufficiently compelling evidence, it cannot be assumed that a woman qualified to earn is, in fact, earning. In **Sunita Kachwaha and Others v. Anil Kachwaha** [(2014) 16 SCC 715], the husband raised a contention that since the wife was employed as a teacher and had sufficient income, she was not entitled to maintenance from her husband. The Supreme Court repelled the contention and held that merely because the wife was earning something would not be a ground to reject her claim for maintenance. In **Chaturbhuj v. Sita Bai** [(2008) 2 SCC 316], it was held that the court has to determine whether the income of the wife is sufficient to enable her to maintain herself in accordance with the lifestyle of her husband in the matrimonial home. It was observed that the expression 'unable to maintain herself' does not mean that the wife must be absolutely destitute before she can apply for

maintenance. Recently, this Court in **Jayaprakash E.P. v. Sheney P.** (2025 (1) KLT 815) took the view that the wife's temporary job, even if it provides some income, would not disentitle her to claim maintenance from her husband if she asserts that the said income is insufficient for her maintenance. The test is whether the wife is able to maintain herself more or less in the status that her husband has maintained her. The wife is entitled to live the same standard of life as she lived with the husband.

8. Section 125 of Cr.P.C. (Section 144 of BNSS) is a measure of social justice, especially enacted to protect women and children and falls within the constitutional scheme of Article 15(3) reinforced by Article 39 of the Constitution of India. 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. While interpreting a provision in a beneficial legislation, the court must always interpret

the words in such a manner that the relief contemplated by the provision is secured and not denied to the class intended to be benefited. Thus, the expression ‘unable to maintain’ in Section 125 of Cr.P.C must be interpreted to mean the actual inability to sustain rather than mere potential earning capacity. The expression does not mean mere capacity or capability to earn. So much so, a highly qualified wife, if not working and earning, cannot be denied maintenance on the ground that she has the capacity to earn. In other words, a highly qualified jobless wife is entitled to maintenance until she secures sufficient means to support herself. For these reasons, I cannot concur with the view of the Delhi High Court in **Megha Khetrapal** (supra) that a well-qualified wife, having the earning capacity but remaining idle, cannot claim maintenance from her husband. The argument of the learned counsel for the petitioner that the first respondent, being a well-educated lady capable of securing a job, is not entitled to claim maintenance from the petitioner, therefore, must fail.

There is no dispute that the petitioner has the requisite means. Considering the means of the petitioner and the requirements of the respondents, the monthly maintenance granted by the Family Court vide the impugned order appears to be reasonable. There is no illegality or impropriety in the impugned order. The Revision Petition is, accordingly, dismissed.

**Sd/-**
**DR. KAUSER EDAPPAGATH**
**JUDGE**

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