

**Moideen Vs. Ramlath**

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**SooperKanoon Citation :** [sooperkanoon.com/726246](http://sooperkanoon.com/726246)

**Court :** Kerala

**Decided On :** May-21-2008

**Reported in :** II(2008)DMC348

**Judge :** R. Basant, J.

**Acts :** [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 125

**Appeal No. :** R.P.F.C. No. 77 of 2008

**Appellant :** Moideen

**Respondent :** Ramlath

**Advocate for Def. :** K.C. Santhosh Kumar, Public Prosecutor

**Advocate for Pet/Ap. :** B.H. Mansoor, Adv.

**Disposition :** Petition dismissed

**Judgement :**

ORDER

**R. Basant, J.**

1. This revision petition is directed against an order passed under Section 125 of the Cr.P.C whereunder the petitioner has been mulcted with liability under Section 125 of the Cr.P.C to pay an amount of Rs. 2,000 per mensem to the claimant

admittedly his wife.

2. Fundamental facts are admitted and not disputed. Marriage is admitted. Petitioner has another wife. The claimant is the second wife of the petitioner. The claimant had earlier been married and divorced by her former husband. It is thereafter that the matrimony between the petitioner and the claimant commenced. The claimant contended that she is unable to maintain herself and that the petitioner who is having sufficient means is refusing and neglecting to pay maintenance to the claimant. The petitioner contended that being the second wife, the claimant is not entitled for maintenance. It was further contended that she having been married earlier, she is not entitled to get any maintenance from the petitioner herein. He did further contend that he does not have sufficient means to pay the amount to the claimant. The claimant examined herself as PW1 and a witness as PW 2. The petitioner examined himself as RW1. Exts. A1 series to A4 and B1 series were marked.

3. The learned Judge of the Family Court came to the conclusion that the petitioner is liable to pay maintenance to the claimant admittedly his wife. The Court found that the claimant is unable to maintain herself. The Court further found that the petitioner was having sufficient means. There was neglect and refusal to pay maintenance, it is further found. In the facts and circumstances of this case, the Court found that the direction to pay an amount of Rs. 2,000 per mesnem would be perfectly justified. Accordingly, the learned Judge proceeded to pass the impugned order.

4. The petitioner claims to be aggrieved by the impugned order. What is the grievance? It is contended first of all that the claimant being the second wife is not legally entitled to claim maintenance. In the next breath, it is contended that this being the second marriage of the claimant the petitioner has no liability to pay maintenance under Section 125 of the Cr.P.C. Less said about these contentions, the better. The sequence of events clearly shows that the petitioner was aware of such earlier marriage and divorce of the wife. The husband who has married her again is liable to pay maintenance to her. The fact that she is a divorced wife or that the person against whom the claim is made has another wife, which is

permitted under the Personal Law, are certainly no grounds under which the claim of a wife under Section 125 of the Cr.P.C. can be successfully resisted. The challenge on those grounds cannot obviously succeed.

5. Though it was contended that the maintenance used to be paid, there was no satisfactory evidence to that effect. The claimant asserted that the petitioner is a business man. The petitioner asserted that he is a painter getting an amount of Rs. 150 per day. The Court below relied on the documents produced by the petitioner himself which showed that the petitioner is a business man. In these circumstances, the evidence of the claimant was preferred by the learned Judge of the Family Court.

6. I have considered all the relevant inputs. I am satisfied that the impugned order does not suffer from any vice which can justify or warrant the invocation of the revisional jurisdiction of superintendence and correction to interfere with the same.

This Revision Petition is accordingly dismissed.

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