

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2015

CORAM

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.1241 of 2014
and
M.P.No.1 of 2014

Raja

... Petitioner/Accused

vs

Minor Santhosh Raja
rep.by her mother
Anitha Nirmal

... Respondent/Complainant

Criminal Revision case filed under Sections 397 and 401 of Cr.P.C. against the order dated 09.10.2014 passed by the learned Chief Judicial Magistrate, Perambalur in M.C.No.22 of 2010.

For Petitioner : Mr.C.D.Johnson

For Respondent : Mr.Ilanthiraiyan for
M/s.Sai, Bharath and Ilan

ORDER

Challenging the order dated 09.10.2014 passed by the learned Chief Judicial Magistrate, Perambalur in M.C.No.22 of 2010 in ordering maintenance to the minor respondent in a sum of Rs.10,000/- per month, the petitioner/father has come forward with this revision.

2. The brief facts of the case is as follows:

The minor respondent represented by his mother/natural guardian/wife of the petitioner filed a petition under Section 125 of the Criminal Procedure Code seeking maintenance from the petitioner/husband in a sum of Rs.10,000/- per month. The Court below ordered the said petition as prayed for. Hence, the revision.

3. Learned counsel appearing for the petitioner/husband would submit that the respondent/wife has voluntarily left the matrimonial home along with the minor child; hence, she is not entitled to any maintenance. Moreover, it is stated that the petitioner has no wherewithal to pay a sum of Rs.10,000/- per

month out of his earnings and he has to look after his aged parents. However, the Court below without taking into consideration all these facts, has ordered maintenance. Accordingly, he would only pray for reduction of the amount ordered by the Court below.

4. Learned Counsel for the minor respondent would submit that since the mother of the respondent suffered cruelty at the hands of the petitioner and his parents she left the matrimonial home along with the minor respondent. Further he would submit that the wife has not sought for any maintenance and the very petition itself was filed only seeking maintenance for the minor child, as in the today's cost of living index, she finds it difficult to brought up the minor son. Further, she would submit that during the pendency of the revision, this Court directed the petitioner to pay a sum of Rs.7,500/- per month as maintenance to the minor respondent along with the arrears; however, till date not even a single pie has been paid by the petitioner. Accordingly, the learned counsel for the respondent would pray for dismissing the criminal revision case.

5. Heard both sides and perused the materials available on record.

6. The petitioner seeks only reduction of the amount ordered by the Court below as he finds it difficult to pay a sum of Rs.10,000/- per month to the minor respondent as maintenance. Moreover, the petitioner would submit that the mother of the minor children is working as an Assistant Professor and is earning sufficiently to take care of the minor son. Though he admits that he has to take care of his son, would only submit that the amount ordered by the Court below for the seven year old son is very high.

7. Taking into consideration the entire facts and also in view of the fact that the wife has sought maintenance only in respect of her minor son, who is aged 7 years and that she is also earning sufficiently, that the petitioner is also willing to pay the maintenance, the order passed by the Court below is modified as under:

The petitioner/husband is directed to pay a sum of Rs.8,000/- [Rupees eight thousand only] per month as maintenance to the minor respondent from the date of the petition till date and he is also directed to pay the entire arrears of maintenance within a period of six weeks from the date of receipt of a copy of this order and continue to pay the amount of Rs.8,000/- per month, on or before 5th of every succeeding English Calendar month to the minor respondent as undertaken by the petitioner before this

Court. However, failing compliance of the condition imposed, it is made clear that contempt action will be initiated against the petitioner.

8. With the above observation, this Criminal Revision Case is partly allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vj2

To

1. The Chief Judicial Magistrate,
(Senior Division)
Perambalur

+1cc to M/s.Sai, Bharath and Ilan, Advocate, S.R.No.53901

Cr1.RC.No.1241 of 2014

TM(CO)
CA(30/10/2015)



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