

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2015

CORAM

THE HONOURABLE MR.JUSTICE S.MANIKUMAR

CRL.R.C.No.1376 of 2014
and M.P.No.1 of 2014

A.Joseph Santhaseelan

... Petitioner

M.Bobby

vs.

... Respondent

PRAYER: Criminal Revision Case filed under Sections 397 and 401 of Criminal Procedure Code to set aside the order dated 24.11.2014 passed by the learned Judicial Magistrate, Tambaram, in Crl.MP.No.4139 of 2014 in C.C.No.30 of 2013.

For Petitioner : Mr.M.Sankar

For Respondent : Mr.S.Balasubramanian

JUDGMENT

Being aggrieved by the order dated 24.11.2014 made in Crl.MP.No.4139 of 2014 in C.C.No.30 of 2013 on the file of the learned Judicial Magistrate, Tambaram, the present revision petition is filed.

2.Going through the material on record, it could be noticed that at the time of cross examination of wife/respondent, Crl.M.P.No.4139 of 2014 has been filed, claiming interim maintenance of Rs.20,000/- and after considering the rival submissions, the Court below has ordered Rs.10,000/- per month, as interim maintenance.

3.Though the said order is impugned on several grounds, on 05.01.2015, when the revision case came up for hearing, this Court in MP.No.1 of 2014 in Crl.RC.No.1376 of 2014, granted interim stay of the impugned order, subject to the condition that the petitioner/husband pays the respondent/wife 50% of the maintenance awarded, from the date of the petition i.e., 15.04.2014. Subsequently on 19.01.2015, it was represented that the arrears of maintenance was paid. On the same day, a further direction was issued to the petitioner to pay 50% of the maintenance, as ordered by the lower court.

4. On this day, the learned counsel for the petitioner submitted that as on today, there is no arrears of maintenance. Mr. S. Balasubramanian, learned counsel for the respondent/wife, admitted that CrI.M.P.No.4139/2014 was filed, when the respondent/wife was in the witness box for cross examination. Considering the fact that the number of witnesses likely to be examined in a proceeding under Section 125 CrPC, would be limited and taking note of the fact that C.C.No.30 of 2013 was pending for over a year, instead of passing orders in CrI.M.P.No.4139/2014, for interim maintenance, the Learned Judicial Magistrate, Tambaram, could have disposed of the main C.C.No.30 of 2013 itself. However, it is also to be noted that as per the decision in Savitri v. Govind Singh Rawat reported in AIR 1986 SC 984 = 1985 (4) SCC 337, the Hon'ble Supreme Court held that a woman is entitled to interim maintenance till the disposal of the main case.

5. Quantum of maintenance to be ordered at the final disposal of the main case, may vary, while the court considers all the materials on record. It can also be the same amount, determined at the interim stage. However, considering the facts and circumstances of this case, a sum of Rs.10,000/- ordered as interim maintenance, at this juncture, appears to be slightly excessive and therefore, this Court is inclined to reduce it to Rs.6,000/- per month. Reduction in the quantum of interim maintenance, at this juncture, should not be construed that the High Court has fixed the quantum of maintenance as Rs.6,000/- per month. Where the Court below has to fix, after hearing the parties while disposing of the main case. It is also made clear that the husband, who has filed the present revision case, should not protect a case, as if the High Court, once in for all decided the quantum of maintenance. Husband is stated to be a PG Assistant. Now the respondent/wife is in the witness box, and set for cross-examination. After completion of evidence on her side, the revision petitioner/husband should adduce evidence immediately. The Trial Court shall complete the entire proceedings, within a period of two months from the date of receipt of a copy of this order. The petitioner shall pay interim maintenance of Rs.6,000/- per month, till the disposal of CC.No.30 of 2013.

The Revision Petition is disposed of, as indicated above. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mps/ds

To

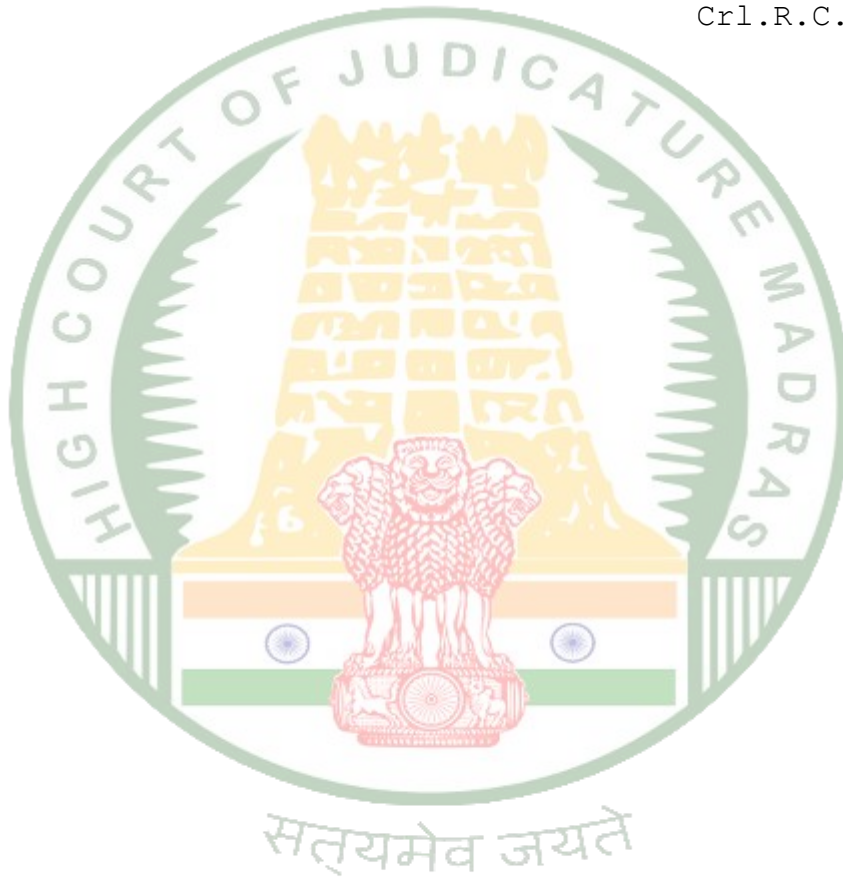
1.The Judicial Magistrate,
Tambaram.

+ 1 cc to M/s. S. Balasubramanian, Advocate SR.16276
+ 1 cc to Mr.M. Sankar, Advocate SR.16257

AK(CO)

EU 15.04.2015

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