

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.676 of 2011
and
M.P.No.2 of 2011

P.Kandhasamy

... Petitioner/Respondent

Versus

1. Mrs.Muniammal

2. Baby Saranya

rep.by her mother and natural
guardian/first respondent

... Respondents/Respondents

Criminal Revision Petition filed under Section 397 and 401 of Cr.P.C. against the order dated 22.03.2011 passed by the learned Judicial Magistrate No.II, Thiruvallur in M.C.No.1 of 1999.

For Petitioner : Mr. R.Narendran

For Respondents : Mr.W.Camyles Gandhi

ORDER

By the order dated 22.03.2011, which is impugned in this Criminal Revision Case, the court below directed the petitioner to pay a sum of Rs.500/- to each of the respondents as maintenance from 16.07.2009 to 23.09.2001 and continue to pay a sum of Rs.3,000/- per month [viz.,Rs.2,000/- to the wife and Rs.1,000/- to the minor daughter till she attains majority] from 24.09.2001. As against the same, the petitioner has come forward with this Criminal Revision Petition.

2. Learned counsel for the petitioner would submit that when the first respondent voluntarily deserted the petitioner and left the matrimonial home, the court below is not correct in ordering maintenance. He would further submit that the first respondent is owning a house and is also having two buffaloes through which she is earning money by selling milk. He would also submit that they have divorced way back in the year 1998 itself by decree of divorce granted by the learned Subordinate Judge, Poonamallee in HMOP No.23 of 1996. Accordingly, he would pray for setting aside the order passed by the court below.

3. However, the learned counsel for the petitioner would also fairly submit that it is the duty of the petitioner to take care of the minor daughter, who has now completed +2. Since the petitioner is only working as a cook, he may find it difficult to pay the arrears of maintenance as ordered by the Court below. Hence, he would submit that he is prepared to pay lesser amount as may be fixed by this Court, towards the arrears of maintenance and will also continue to pay the monthly maintenance both to the wife and daughter.

4. Learned counsel appearing for the respondents also submitted that since the second respondent had completed her +2, she may be in need of money for her future studies immediately and for conducting her marriage. Accordingly, he would submit that if any amount is paid by the petitioner, that will be beneficial for the respondents.

5. I have heard both sides and perused the records.

6. Considering the peculiar circumstances of the case, without going into the merits of the matter, taking into account the fact that the second respondent needs money immediately for continuing her higher education, instead of mulcting the petitioner with the liability of arrears of maintenance, which would further delay in making the payment, I direct the petitioner to pay a consolidated sum of Rs.2,00,000/- [Rupees two lakhs only], which would meet the ends of justice.

7. Accordingly, the following order is passed:

(i) The petitioner/husband is directed to pay a consolidated sum of Rs.2,00,000/- [Rupees two lakhs only] to the first respondent/wife within a period of six weeks from the date of receipt of a copy of this order.

(ii) The petitioner shall also continue to pay a total sum of Rs.3,000/- to the respondents every month on or before the 5th of every succeeding English calendar month.

(iii) If the petitioner fails to comply with any one of the conditions imposed, the original order passed by the Court below shall hold good.

8. With the above modification, this criminal revision case is partly allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vj2

To

1. The Judicial Magistrate No.II,
Thiruvallur
2. -do- Through The Chief Judicial Magistrate,
Thiruvallur District.

+lcc to Mr.W.Camyles Gandhi, Advocate, S.R.No.31226

Crl RC No.676 of 2011

TEJ(CO)
CA(07/07/2015)



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