

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2015

CORAM:

THE HON'BLE MR.JUSTICE P.DEVADASS

CrI.R.C. No.380 of 2015 & M.P.1 of 2015

Gowri Shankar

.. Petitioner

Vs.

1. Dhanam

2. Minor. Vediappan @ Absarathi

... Respondent

Petition filed under Section 397 and 401 of the Code of Criminal Procedure, to set aside the order dated 04.03.2015 and call for the entire records in connection with the M.C.No.7 of 2012 on the file of the learned District Munsif cum Judicial Magistrate, Uthangarai, Krishnagiri District.

For Petitioner : Mr.E.Kannadasan

O R D E R

This revision has been preferred by a husband as against granting of maintenance passed to his wife and son at the rate of Rs.3000/-, Rs. 2000/- per month, respectively.

2. The revision petitioner, namely, Gowri Shankar married the first respondent, who is the first petitioner in M.C.No.7 of 2012. They were blessed with a male child. He is the second respondent in the revision and second petitioner in M.C.No.7 of 2012. The wife and the son of the revision petitioner sought for maintenance in alleging that the revision petitioner has failed and neglected to maintain them inspite of having sufficient means. Revision petitioner filed counter opposing the maintenance plea.

3. The wife examined herself as P.W.1 and her father as P.W.2 and marked few exhibits while the revision petitioner deposed as R.W.1.

4. Appreciating the evidence on 4.3.2015, the learned Judicial Magistrate, Uthangarai passed the impugned order directing

the revision petitioner to pay Rs.3,000/-, Rs.2,000/- to his wife and son respectively.

5. Aggrieved, the husband has directed this revision petition.

6. Learned counsel for the revision petitioner contended that the revision petitioner is a poor coolie. He does not possess much income. He is originally a coolie in a knitting factory in Tirupur. However, the learned Magistrate overlooked the unsatisfactory financial position of the petitioner and directed to pay maintenance. At any rate, the quantum of maintenance awarded by the learned Magistrate is excessive. It is on the higher side.

7. With the assistance of the learned counsel for the revision petitioner, I went through the averments in the petition in the maintenance case and the counter and I have also read the evidence of P.Ws.1, 2 and R.W.1

8. Wife and son, who are petitioners in the main maintenance case are to be maintained by the revision petitioner. If he has no means, that is a different matter. But the word 'means' for the purpose of Section 125 Cr.P.C is interpreted as able bodied. If a petitioner is physically fit to earn, if he has ability to earn, whether he works or not, simply sleeps in the house, Courts have held that he has means.

9. In this case, R.W.1/the revision petitioner is employed in a knitting factory in Tiruppur. He is a tailor. Now, Tiruppur has become a heaven for coolies etc., and it gives large scale employment to many people.

10. Tiruppur Banian Companies are paying very much more. There is large scale employment of unorganised workers. Besides the evidence of P.W.1, the cross-examination of R.W.1, it is seen that the revision petitioner is also having cultivable land of considerable extent, therefore, he gets huge income by engaging himself in a Knitting Company, Tiruppur and he is also bound to get agricultural income from his land.

11. Now, even the prices of essential commodities are on the rise. There is high rate of inflation. The cost of rice, vegetables are on the rise. Thus, a considerable amount is needed to meet the expenses relating to shelter, clothing, eating and for other extra expenses required of a woman and towards educational expenses of the child.

12. In the light of the above, Rs.3000/-, Rs.2000/- itself is a base rate.

13. Revision petitioner has got sufficient means to pay the said amount.

14. In the result, this revision fails and it is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kua

To

The Judicial Magistrate, Uthangarai,
Krishnagiri District.

1 cc to Mr. E.Kannadasan, Advocate, SR.No.23176

Crl.R.C. No.380 of 2015 &
M.P.1 of 2015

rsk(co)
pmk.21.5.2015



WEB COPY