

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.285 of 2010 and
M.P.No.1 of 2010

Vincent

.. Petitioner

Versus

1. Brijitta Marry

2. Christina Magdolin Rani

.. Respondents

Criminal Revision case filed under Sections 397 and 401 of Cr.P.C. to set aside the judgment dated 09.11.2009 made in M.C.No.12 of 2006 on the file of the Judicial Magistrate No.I, Mettur.

For Petitioner : Mr.T.Murugamanikkam

For Respondents : No appearance

ORDER

The Criminal Revision Case has been filed to set aside the Order dated 09.11.2009 made in M.C.No.12 of 2006 by the learned Judicial Magistrate No.I, Mettur.

2. The crux of the case is as follows:

The petitioner herein is the husband of the 1st respondent herein and the 2nd respondent is their second daughter. Due to the torture said to have been given by the petitioner husband, the 1st respondent along with the 2nd respondent are residing with her parental home. Since the 1st respondent herein is suffering from illness, she could not go for any job. So, in order to eke their livelihood, she has filed M.C.No.12 of 2006 before the learned Judicial Magistrate No.I, Mettur seeking maintenance of Rs.2,000/- each for herself and her second daughter. The learned Magistrate by an order dated 9.11.2009 directed the petitioner husband to pay a maintenance of Rs.1,000/- p.m. to the wife and Rs.750/- p.m. towards his second daughter. Aggrieved over the same, the petitioner-husband herein who is the respondent therein is before this Court with this revision.

3. According to the learned Counsel for the Revision Petitioner, the petitioner husband has settled a property in favour of his 2nd daughter who is living with his wife. That apart, the 1st respondent-wife has got wherewithal to maintain herself and her second daughter. Further, according to the learned Counsel for the Revision Petitioner, the trial court has failed to consider the income of the petitioner herein in proper perspective. Hence, he prays to allow the present revision.

4. Though notice has been served on the respondents and their names are printed in the Cause List, none appeared on behalf of them. Hence, the Criminal Revision Case is taken up for disposal on merits as per the judgment of the Hon'ble Supreme Court reported in (2013) 3 SCC 721 [K.S.Panduranga vs. State of Karnataka] after hearing the learned counsel for the petitioner.

5. At the outset, it is not in dispute that the petitioner herein is the husband of the 1st respondent and the 2nd respondent is their daughter. It is also not in dispute that though the petitioner and the 1st respondent are living separately, their marriage is still in subsistence and there is no proceedings for divorce is pending before any court. Further, it is also an admitted fact that the 2nd respondent is a student. Though it is contended by the learned Counsel for the Revision Petitioner that the trial court has failed to give a clear findings in respect of the income of the petitioner husband on the basis of the documents produced by him and also the release deed Ex.R.2 executed by the petitioner herein in favour of the 2nd respondent, a perusal of the order of the trial court would go to show that the trial court has clearly held that the maintenance case is a summary trial procedure wherein the court cannot look into the validity of the documents. Therefore, the trial court without going into the legal validity of the document Ex.R.1, considering the facts and circumstances of the matter and also taking into consideration of other attendant circumstances, awarded a maintenance of Rs.1000/- p.m. to the 1st respondent wife and Rs.750/- p.m. to the 2nd respondent-2nd daughter which, in my considered view, is fair, reasonable and correct. Therefore, I do not find any infirmity in the reasoned order of the trial court.

6. In the result, the Criminal Revision Case fails and the same is accordingly dismissed. The petitioner-husband herein is directed to pay the arrears of maintenance to the respondents herein directly within a period of three months from the date of receipt of a copy of this Order and further continue to pay the maintenance amount to them as ordered by the trial court on or before 8th day of every month. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CS III)

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Sub Assistant Registrar

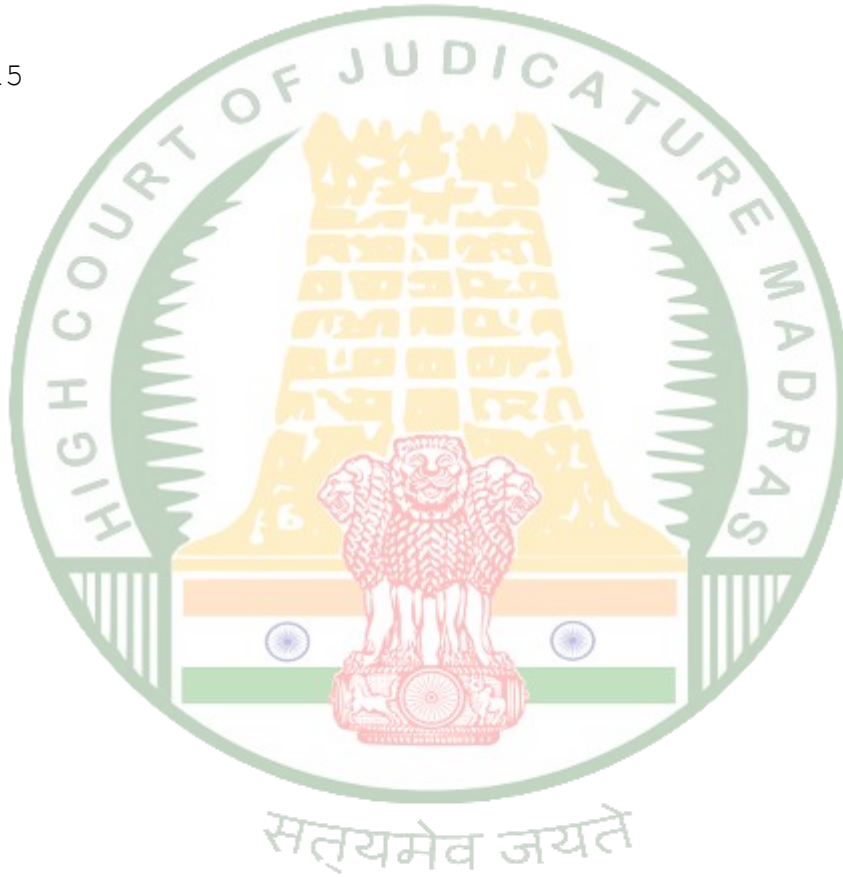
To

1. The Judicial Magistrate No.I, Mettur.
2. The Public Prosecutor, Madras.

+ 1 cc to Mr.T. Murugamanickam, Advocate SR.54467

Crl RC No.285 of 2010

LRS (CO)
Eu 28.10.15



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