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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.85 of 2009
and
M.P.No.1 of 2009

Rajan @ Chenna Krishnan

...Petitioner

vs

1. Chitra
2. Minor Praveen
3. Minor Prakash

...Respondents

Minors 2 and 3 represented by
their mother natural guardian
R1-Chitra

Criminal Revision case filed under Sections 397 and 401 of Cr.P.C. against the order dated 08.09.2008 passed by the learned Judge, Family Court, Coimbatore in M.C.No.131 of 2007.

For Petitioner : Mr.B.Nedunchezhiyan

For Respondents : Mr.S.Gunalan

ORDER

Challenging the order dated 08.09.2008 passed by the learned Judge, Family Court, Coimbatore in M.C.No.131 of 2007 in ordering maintenance to the respondents in a sum of Rs.1,750/- per month, the petitioner/husband has come forward with this revision.

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

The respondent/wife filed a petition under Section 125 of the Criminal Procedure Code seeking maintenance from the petitioner/husband in a sum of Rs.7,500/- per month. The Court below ordered the said petition by awarding a sum of Rs.750/- per month payable by the petitioner/husband to the respondent/wife and Rs.500/- each to the children, totalling a sum of Rs.1,750/- per month. Hence, the revision.



3. Learned counsel appearing for the petitioner/husband would submit that the respondent/wife has voluntarily left the matrimonial home; hence, she is not entitled to any maintenance. Moreover, it is stated that the petitioner has no wherewithal to pay a sum of Rs.1,750/- per month out of his earnings as he is only working as a coolie and earning only Rs.1,000/- per month. However, the Court below without taking into consideration all these facts, has ordered maintenance. Accordingly, he prayed for setting aside the same.

4. Learned Counsel for the respondent/wife would submit that since the respondent was deserted by the petitioner, she is living separately. He would further state that she has to maintain herself as well as her two minor sons. Even the sum of Rs.1,750/- per month ordered by the Court below is very meagre. Further, she would submit that during the pendency of the revision, this Court directed the petitioner to pay 50% of the maintenance ordered by the Court below. 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 only point raised by the petitioner before this Court in this Criminal Revision Case is that the petitioner, who was working only as a coolie, is not able to pay the maintenance amount as ordered by the Court below. Moreover, the respondent/wife voluntarily left the matrimonial home. However, on a perusal of the judgment passed by the Court below as well as the materials available on record, it is seen that the Court below has come to a conclusion that the petitioner would be earning a sum of Rs.4,500/- per month by working as a coolie and accordingly ordered him to pay a sum of Rs.750/- to the wife and Rs.500/- each to the two minor children. The respondent/wife has also not filed seeking enhancement of the maintenance ordered before this Court.

7. Therefore, considering the cost of living index, this Court is of the view that the amount of Rs.1,750/- per month ordered by the Court below to the first respondent/wife and two minor children, is very meagre. Hence, I do not find any reason to interfere with the reasoned order passed by the Court below. Since, it is stated that the petitioner/husband has not paid any amount till date, he is directed to pay the entire arrears of maintenance within a period of three months from the date of receipt of a copy of this order and continue to pay the amount of Rs.1,750/- ordered by the Court below, on or before 5th of every succeeding English Calendar month to the respondents, without fail



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

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Sd/-
Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

vj2

To

The Judge,
Family Court,
Coimbatore

1 CC to Mr.B.Nedunchezhiyan, Advocate SR.No. 44134

1 CC to M/s. P. Indumathi, Advocate SR.No. 44017

Copy to

The Section Officer,
Criminal Section,
High Court,
Madras.

Cr1.RC.No.85 of 2009

AK (CO)
PSI (22.09.2015)