

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.9.2015

CORAM

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.867 of 2009

N.Rajammal

... Petitioner

Versus

Mrs. B.Vijaya

... Respondent

Criminal Revision Petition filed under Section 397 and 401 of Cr.P.C. against the judgment dated 08.6.2009 made in C.M.P.No.3883 of 2009 on the file of the learned Judicial Magistrate No.1, Tirupur.

For Petitioner : Mr.S.Kolandasamy

For respondent : Mr.G.Ilangovan

ORDER

This Criminal Revision case has been filed against the order dated 08.6.2009 passed by learned Judicial Magistrate No.I, Tirupur.

2. The petitioner herein has filed a petition in C.M.P.No.3883 of 2009 under Section 125 of the Criminal Procedure Code claiming maintenance from her married daughter. Prior to this petition, the petitioner has filed a similar application against the same respondent for the same relief. Pending the same, the present petition has been filed. Both the petitions were returned and the petitioner with holding the earlier application has represented this application and the Court below passed an order on 08.6.2009 rejecting the claim of maintenance. Aggrieved over the said order, the petitioner/ mother has filed the present revision.

3. The learned counsel for the petitioner submitted that the court below has not taken into consideration the pathetic situation of the petitioner/mother. The learned counsel for the petitioner further submitted that due to family dispute, the petitioner has executed settlement deeds in respect of certain properties in favour of her daughter-in-law, who is also her grand daughter. The learned counsel for the petitioner also submitted that and merely because,

the petitioner was having the properties and executed settlement deed will not absolve the liability of the daughter and the respondent daughter is bound to maintain her.

4. The learned counsel for the respondent submitted that the petitioner's husband and her son are alive and are in possession of sufficient means. The learned counsel for the respondent further submitted that the petitioner ought to have asked her son to maintain her. The learned counsel also submitted that the respondent, being married daughter and had not devolved upon any of the properties of the petitioner, is not liable to maintain the petitioner. In fact, the petitioner has executed settlement deeds in respect of certain properties in favour of her daughter-in-law and she is in possession of those properties and is receiving rents from those properties. Hence, it is not open to the petitioner/ mother to seek maintenance from the respondent.

5. The main ground raised by the petitioner herein is that since she is bed ridden, the respondent, being daughter, is liable to maintain her.

6. The petitioner herein is the mother of the respondent/ married daughter. The petitioner is represented by her daughter-in-law as well as grand daughter, namely, Geetha, the power of Attorney. According to the petitioner, due to some dispute, her son married another lady and hence, she executed settlement deeds in respect of certain properties in favour of her daughter-in-law, who, in turn, executed settlement deed in favour of her mother, the respondent herein, due to compulsion and wrong advice of the respondent. It is the contention of the petitioner that the respondent is bound to maintain her as she is now bed ridden and not having any sufficient means.

7. However, the fact remains that the respondent is a married daughter of the petitioner and living separately with her husband. Therefore, the contention of the petitioner that she was not taking care of her cannot be accepted and hence, the Court below has rightly dismissed the petition.

8. Moreover, the petitioner's husband and son are alive and are said to be in possession of sufficient means. Further, on a perusal of the entire papers, it appears that the power of attorney of the petitioner, namely, the Geetha has been authorised by the petitioner to deal with some of the properties and she is earning Rs.25,000/- per month. The petitioner has settled a part of her properties to her destitute grand daughter, the power of attorney herein, and has kept her and the properties with her. Therefore, it is clear that the petitioner was having sufficient means to maintain her and the respondent being married daughter and is living separately with her husband is not bound to maintain her. Therefore, it is not open to

the petitioner/ mother to seek maintenance from the respondent/ daughter.

9. Therefore, I do not find any reason to interfere with the reasoned order of the Court below. The Criminal Revision case is dismissed.

Sd/-
Assistant Registrar(CS V)

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Sub Assistant Registrar

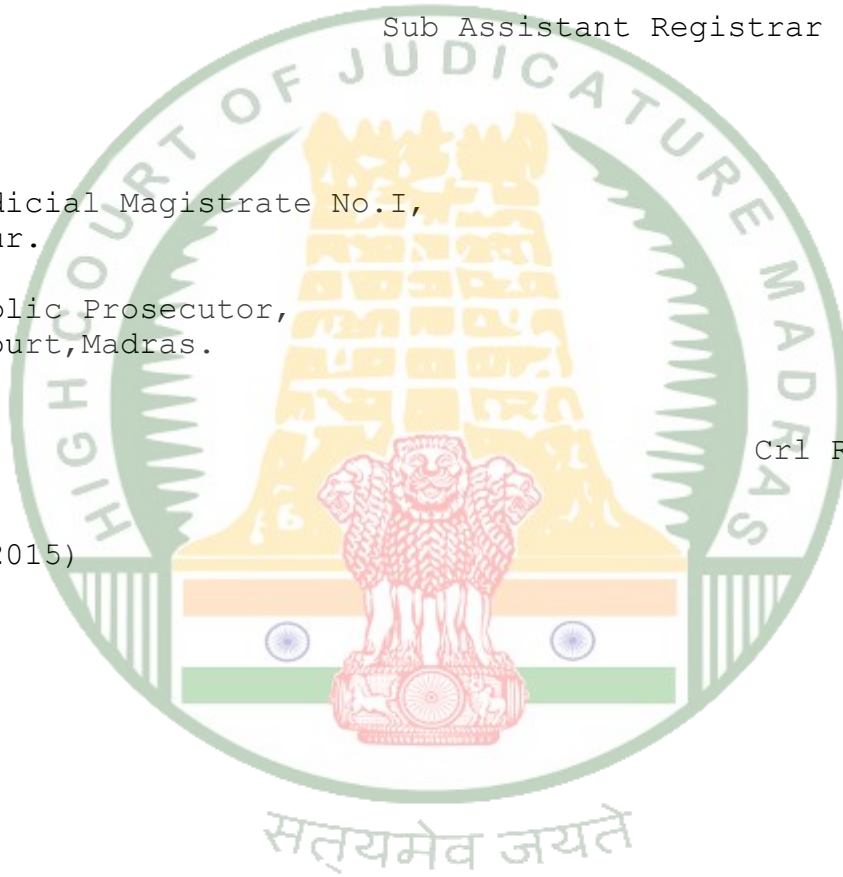
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To

1. The Judicial Magistrate No.I,
Tiruppur.
2. The Public Prosecutor,
High Court,Madras.

Crl RC No.867 of 2009

VSN(CO)
CA(29/09/2015)



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