

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.933 of 2010
and
M.P.No.1 of 2010

Manokaran

.. Petitioner

vs

1.Vizalachi
2.Minor Sowbagya
Minor rep. by Guardian
Mother Vizalachi
3.Minor Pavithra
Minor rep. by Guardian
Mother Vizalachi

.. Respondents

Criminal Revision case filed under Sections 397 and 401 of Cr.P.C. to call for the records and set aside the order dated 23.07.2010 made in M.C.No.1 of 2009 on the file of the Judicial Magistrate, Dharapuram.

For Petitioner :Mr.S.Lakshmanasamy

ORDER

The petitioner has come forward with this Criminal Revision case as against the judgment dated 23.07.2010 passed by the learned Judicial Magistrate, Dharapuram in M.C.No.1 of 2009.

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

The respondent/wife filed a petition under Section 125 of the Criminal Procedure Code claiming maintenance from the petitioner/husband, in a sum of Rs.2,000/- per month for herself and Rs.1,500/- each for two minor children and in total, she claimed Rs.5,000/- per month in M.C.No.1 of 2009. By order dated 23.07.2010, the learned Judicial Magistrate, Dharapuram directed the petitioner/husband to pay a sum of Rs.1,500/- per month for his wife/the first respondent herein and Rs.750/- per month each for his two minor children, namely, the respondents 2 and 3 herein and in total ordered Rs.3,000/- per month as maintenance from the date of filing of the said petition. Challenging the same, the present revision is filed.

3. Learned counsel for the petitioner/husband submitted that the first respondent/wife has voluntarily left the matrimonial home and hence, she is not entitled to any maintenance. Moreover, it is stated that the petitioner is working as daily wage labourer earning Rs.2,500/- per month and hence, it may not be possible for him to pay

a sum of Rs.3,000/- per month as maintenance to the respondents. Accordingly, he prayed for setting aside the same.

4.Though notice has been ordered, the respondents have not been served for the past five years.

5.Heard the learned counsel appearing for the petitioner and perused the materials available on record.

6.The only point raised by the petitioner/husband before this Court is that the Court below erred in ordering maintenance to the first respondent/wife, as she had left the matrimonial home on her own. It is also seen that the first respondent/wife is living along with her two minor children and has not married any one till date.

7.For all the above stated reasons and having regard to the cost of living index the amount of Rs.3,000/- per month ordered by the Court below as maintenance is very meagre. Further, the respondents have also not come forward for higher maintenance. Therefore, I do not find any reason to interfere with the reasoned order passed by the Court below. The petitioner/husband is also directed to pay the arrears of maintenance within a period of three months from the date of receipt of a copy of this order.

8.Accordingly, this Criminal Revision Case is dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

cse

To

The Judicial Magistrate,
Dharapuram.

Crl.RC.No.933 of 2010
and M.P.No.1 of 2010

TM(CO)
Eu 24.08.15