

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.8.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No. 694 of 2012

K.K.Palaniappan

.. Petitioner/Petitioner

Versus

1. P.Nagamma

2. K.P.Senthilkumar

3. K.P.Devi Suganya

.. Respondents/Respondents.

Criminal Revision Petition filed under Section 397 and 401 of Cr.P.C. against the order of Family Court, Coimbatore in M.C.No.173 of 2005 dated 30.7.2010.

For Petitioner : Mr.Kalyanasundaram
Senior Counsel for
Mr.R.Vasudevan

For respondent : Mr. G.Vijayakumar

ORDER

This Criminal Revision has been filed against the order dated 30.7.2010 passed by learned Family Judge, Coimbatore in M.C.No.173 of 2005.

2. The petitioner herein has filed a petition in M.C.No.173 of 2005 under Section 125 of the Criminal Procedure Code praying for maintenance at the rate of Rs.5,000/- per month and Rs.1,00,000/- towards medical expenses from his wife, his daughter and his son and the same was dismissed by the trial Court by order dated 30.7.2010. Aggrieved over the said order, the petitioner/ husband has filed the present revision.

3. According to the petitioner, he married the first respondent herein on 25.2.1972 and the second and third respondents were born out of the legal wedlock. According to the petitioner, he had been contributing to the family and purchased the house in the name of the first respondent, who was also working as teacher all along. Now the petitioner is aged about 66 years and he met with an accident and due to which, he could not work. According to the petitioner, the first respondent is getting Rs.10,000/- per month as pension and the second respondent is running a computer centre, for which he is repaying the loan and the third respondent is working in U.S.A and living with her husband. Therefore, the petitioner filed a petition before the Court below claiming maintenance and the same has been dismissed on the ground that the second respondent/son is not working and since the daughter is married, she is not liable to maintain the petitioner.

4. The learned counsel appearing for the petitioner / husband submitted that the petitioner was earlier working and he was taking care of the entire family and since he met with an accident, he could not work now. The learned counsel for the petitioner / husband further submitted that the respondents herein, namely, the wife and children, are not taking care of them. The learned counsel also submitted that his daughter/third respondent is working in foreign country and earning more income. It is further submitted that the petitioner alone purchased the house, wherein the second respondent/son is now doing computer business. Therefore, the learned counsel submitted that the respondents are bound to maintain the petitioner.

5. The learned counsel for the respondents submitted that the petitioner has left the house long back. The learned counsel for the respondents further submitted that the second and third respondents were brought up by the first respondent at her cost and the petitioner has not contributed any amount towards expenses of their children. The learned counsel also submitted that the first respondent alone spent entire money towards the marriage of the third respondent. It is submitted that the first respondent alone purchased the house in her name, wherein the second respondent is now doing computer business. The Court below, after considering all these things, has rightly dismissed the petition and, therefore, the same need not be interfered with.

6. I heard the learned counsel for both sides and perused the materials available on record.

7. The main ground raised by the petitioner herein is that though the respondents are earning sufficient income, they are not taking care of him.

8. The petitioner herein is the husband of the first respondent and father of the respondents 2 and 3 and he is aged about 66 years. Due to some dispute, they are living separately. The reason for dispute is different from each other. The fact remains that the respondents are living separately and the petitioner left the house even in the year 2001 itself. Therefore, the contention of the petitioner that he was taking care of the wife and children cannot be accepted and hence, the Court below has rightly dismissed the petition. But, according to the petitioner since he met with an accident, he is not able to work now and hence, the respondents are bound to maintain him. According to the respondents, the petitioner was doing business and earned well. However, on humanitarian basis, the respondents are willing to pay some amount to the petitioner.

9. Admittedly, the third respondent got married and she is living separately with her husband. Therefore, she cannot be compelled to pay. But at the same time, considering the sympathetic condition of the petitioner and also considering the age of the petitioner, the respondents 2 and 3 together or separately shall deposit a consolidated sum of Rs.5,00,000/- in a fixed deposit in the joint name of the petitioner and the respondents 2 and 3 in any one of the nationalised bank initially for a period of ten years and thereafter, to renew periodically till the life time of the

petitioner. The interest accrued thereon shall be paid every month directly to the petitioner. After the demise of the petitioner, the respondents 2 and 3 are at liberty to withdraw the amount in accordance with the proportion of their contribution. Insofar as the first respondent/ wife is concerned, the revision is dismissed and she is not liable to pay any maintenance.

With the above observation, the Criminal Revision case is disposed of.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

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To

1. The Judge, The Family Court, Coimbatore.

2. The Public Prosecutor, High Court, Madras.

+1 cc to Mr.R.Vasudevan, Advocate, sr.43042

+1 cc to Mr.G.Vijayakumar, Advocate, sr.43744

Crl RC No. 694 of 2012

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