



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

CRL.RC.(MD)No.513 of 2014

and

M.P.No.1 of 2014

Janaki

: Petitioner

Vs.

M.Ravikumar

: Respondent

PRAYER: Petition is filed under Section 397 r/w 401 of the Code of Criminal Procedure, against the order made in Cr.P.R.No.79 of 2013 in M.C.No.31 of 2010, dated 08.04.2014, on the file of the Principal Sessions Judge, Madurai.

For Petitioner : Mr.S.Chandrasekaran

For Respondent : Mr.S.Palanivelayutham

For Mr.S.Durairaj

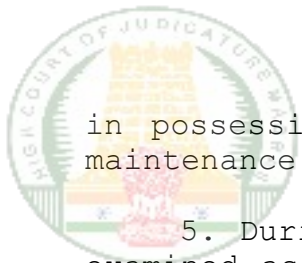
O R D E R

By consent, the Criminal Revision Case itself is taken up for final disposal.

2. The wife is the Revision Petitioner and aggrieved by the order passed by the Court of Principal Sessions Judge, Madurai, in reducing the monthly quantum of maintenance from Rs.2,000/- to Rs.1,000/-, vide impugned order dated 08.04.2014, she has filed this revision.

3. The facts of the case would disclose that the marriage between the Revision Petitioner and the respondent herein was solemnized on 14.06.1989, as per the Hindu rites and customs and out of the wedlock, two male children were born. It is further averred that the respondent was doing some contract works and was earning sufficient income and in possession of the property. The Revision Petitioner was forced to leave the matrimonial home, on account of the torture given by the respondent/husband, leaving the children in the custody of the respondent/husband and though she has tried to compromise the matter, amicably, it did not fructify. In order to maintain herself, she came forward to file M.C.No.31 of 2010, on the file of the learned Additional Chief Judicial Magistrate, Madurai, praying maintenance of Rs.5,000/- per month.

4. The said petition was strongly opposed by the respondent by filing a counter, wherein he has averred that only on account of indifferent attitude shown by the Revision Petitioner, he is forced to live away from her and ultimately, he is educating his two children and one of them is studying in Engineering College and another is studying in Arts College and the Revision Petitioner is residing with her parents and she is also



in possession of valuable property and hence, she is not entitled for maintenance.

5. During the course of enquiry, the Revision Petitioner herself was examined as PW-1 and one Sattamuni was examined as PW-2 and Exs.P-1 to 5 were marked on the side of the Revision Petitioner. On behalf of the respondent, he himself was examined as DW-1 and no documents were marked on the side of the respondent.

6. The Trial Court, on a consideration of the oral and documentary evidences, has allowed the said petition, directing the respondent herein to pay a sum of Rs.2,000/- towards maintenance from the date of petition. Aggrieved by the same, the respondent/husband has filed Cr.P.R.No.79 of 2013, on the file of the learned Principal Sessions Judge, Madurai.

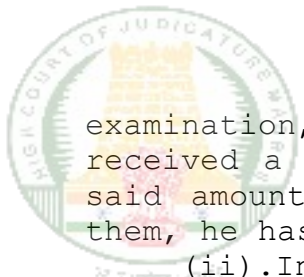
7. The learned Principal Sessions Judge, Madurai, taking into consideration of the fact that the parents of the Revision Petitioner are in possession of the property and she is residing in her share of property, thought it fit to reduce the quantum of maintenance and passed an order to that effect, vide impugned order dated 08.04.2014 and hence, this Revision.

8. The learned counsel appearing for the petitioner/wife has invited the attention of this Court to the cross-examination of Revision Petitioner/PW-1 and would submit that nothing has been extracted to the effect that the Revision Petitioner is having an independent income and simply because the Revision Petitioner is residing with her parents, it cannot be said that they will continue to take care of her for ever. In the absence of any independent income earned by the Revision Petitioner, the reduction of maintenance from Rs.2,000/- to Rs.1,000/- is not in order. He would further submit that H.M.O.P.No.254 of 2007 has been filed by the respondent/husband, which is pending and in spite of the same, he has contracted second marriage. However, the Lower Appellate Court, without taking into consideration of the said fact, has reduced the maintenance from Rs.2,000/- to Rs.1,000/- and hence, he would submit that the order, dated 08.04.2014, made in Cr.P.R.No.79 of 2013, is liable to be set aside.

9. Per contra, the learned counsel appearing for the respondent/husband would contend that admittedly, the parents of the Revision Petitioner/wife are having properties and she is residing in her share of the property and she is also in receipt of decent income and as per her own admission, the respondent/husband is educating two boys born out of the wedlock and would further deny that he has contracted second marriage and would further add that the reasons assigned in the impugned order are sustainable and hence, prayed for dismissal of the revision.

10. This Court, on considering the rival submissions made by the learned counsel appearing for the parties and on going through the typed set of documents, is of the view that the present Revision is to be allowed for the following reasons:-

(i). On a perusal of the testimony of PW-1/Revision Petitioner would disclose that she is not in receipt of any independent income, though her parents are in receipt of decent income. No doubt, the respondent/husband is educating two boys, born out of the wedlock and in his cross-



examination, it was also admitted by him that he sold a property and received a sum of Rs.90,00,000/-. But, according to the respondent, the said amount is being spent for educating the two boys and to support them, he has also to earn.

(ii).In the absence of any independent income earned by the Revision Petitioner/wife, the reduction of the quantum of maintenance, as ordered by the learned Principal Sessions Judge, Madurai, vide impugned order, dated 08.04.2014 made in Cr.P.R.No.79 of 2013, warrants interference.

11. In the result, the revision is allowed and the order of the learned Principal Sessions Judge, Madurai, dated 08.04.2014, made in Cr.P.R.No.79 of 2013, is set aside and the order passed by the Court of Chief Judicial Magistrate, Madurai, stands restored. The respondent/husband shall take all necessary steps to pay arrears of maintenance and continue to pay the monthly maintenance to the Revision Petitioner/wife. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(T&P)

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Sub.Asst. Registrar

To

- 1.The Principal Sessions Judge, Madurai.
 - 2.The AdditionalChief Judicial Magistrate, Madurai.
 - 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- + 1cc to M/s.S.Durairaj, Advocate in SR No.6812
+1cc to M/s.S.Chandrasekaran in SR.No.6182

pm / 21.02.2015 / 3p /6c

ORDER MADE IN
CRL.RC. (MD) No.513 of 2014

DATED - 11.02.2015

PBK 25/02/2015 ::3P-6C: