



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.07.2015

CORAM:

**THE HONOURABLE MR. JUSTICE S. NAGAMUTHU**

Cr1.R.C. (MD) NO. 272 of 2015 and M.P. No. 1 of 2015

WEB COPY

N. Subramanian

.. Revision Petitioner

Vs.

Ramya

.. Respondent

**Prayer:** Criminal Revision Petition filed under Section 397 r/w 401 Cr.P.C., against the order passed by the learned District Munsif cum Judicial Magistrate, Thiruppathur, in M.C.No.4 of 2010 dated 01.10.2013.

For Petitioner :: Mr.V.Kannan

For Respondent :: Mr.AL.Kannan

**ORDER**

The petitioner is the husband of the respondent. The respondent filed M.C.No.4 of 2010 on the file of the learned District Munsif cum Judicial Magistrate, Thiruppathur, claiming maintenance at the rate of Rs.5,000/- per month. By order dated 01.10.2013, the learned Judicial Magistrate directed the petitioner to pay a sum of Rs.3,500/- per month. Challenging the same, he is before this Court with this revision.

2. I have heard the learned counsel for the petitioner, the learned counsel for the respondent and I have also perused the records carefully.

3. Before this Court, in this petition, the learned counsel for the petitioner has confined his arguments only to the quantum of maintenance ordered by the trial Court and he has not advanced any arguments regarding his liability to pay maintenance. Therefore, I examined the question of quantum alone.

4. According to the petitioner, he does not have any income at all. It is true that there is a house, which is an ancestral property, in which he has got only 1/6<sup>th</sup> of share and from the house, a meagre income was drawn as rent. Thus, according to the petitioner, the direction to pay Rs.3,500/- per month is exorbitant.

5. But the learned counsel for the respondent would submit that it is in evidence that the petitioner was employed elsewhere in Foreign Country and now he has returned and he has got sufficient income.

6. I have considered the above submissions.

7. Except the *ipse dixit* statement of the respondent, there is no other evidence to prove the income. Therefore, the income of the petitioner is to be arrived at only by means of assumption. For a person of the petitioner's stature, at the age of 40, the normal income can be taken as Rs.400/- per day. But, it is not sure that the



petitioner would get employment on all days. Having regard to all the above and based on the evidence available on record, I am inclined to reduce the amount from Rs.3,500/- to Rs.2,000/-.

8. In the result, the criminal revision petition is allowed in part with a direction to the petitioner to pay a sum of Rs.2,000/- (Rupees two thousand only) per month towards maintenance to the respondent from the date of petition filed before the trial Court. Accordingly, the order of the lower Court is modified. Consequently connected Miscellaneous Petition is also closed.

Sd/-  
Assistant Registrar(Writs)

/True copy/

Sub Assistant Registrar

To

1.The District munsif cum Judicial Magistrate,  
Thiruppathur.

2.Do-Thro'The Chief Judicial Magistrate,  
Sivagangai.

+1cc to Mr.VR.Shanmuganathan,Advocate SR.No.35978  
+1cc to Mr.V.Kannan,Advocate SR.No.36141

Cr1.R.C. (MD) NO.272 of 2015  
and M.P.No.1 of 2015  
02.07.2015

RR

PA/IV/14.07.2015/2P/5C