



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.02.2015

CORAM:

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

CRL.RC. (MD) No. 62 of 2015

and

M.P. No. 1 of 2015

G. Rajaram : Petitioner/Respondent

Vs.

Rathi @ Muthulakshmi : Respondent/Petitioner

PRAYER: Petition is filed under Section 397 r/w 401 of the Code of Criminal Procedure, to revise the order of the learned Judicial Magistrate, Sivakasi, Virudhunagar District, dated 24.01.2014 made in Crl.M.P.No.11510 of 2011 in M.C.No.5 of 1991.

For Petitioner : Mr.S.Palanivelayutham

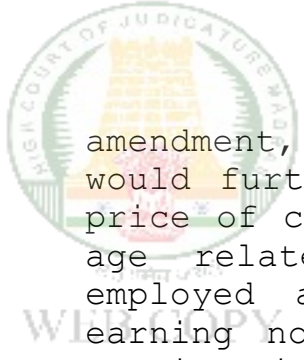
For Respondent : Mr.M.Ashokkumar

ORDER

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

2. The petitioner is the husband of the respondent. She originally filed M.C.No.5 of 1991, on the file of the learned Judicial Magistrate, Sivakasi, under Section 125 of the Code of Criminal Procedure, claiming maintenance. The said case, after contest, was ordered, on 19.05.1993 and the petitioner herein was directed to pay a sum of Rs.150/- per month towards maintenance from the date of petition.

3. The respondent aggrieved by the lesser quantum of maintenance awarded by the Lower Court, filed a revision before the District Court, Madurai. The said order was revised and the petitioner herein was directed to pay a sum of Rs.300/- per month towards maintenance from the date of petition. Thereafter, the respondent herein has filed Crl.M.P.No.11510 of 2011, under Section 127(1) of the Code of Criminal Procedure, claiming enhanced maintenance, by contending that at that time, there was a restriction in the provision that the maintenance cannot be ordered beyond a sum of Rs.500/- and by virtue of the subsequent



amendment, now, there is no limitation in awarding maintenance and would further contend that on account of inflationary trend, the price of commodities had gone up and she is also suffering due to age related ailments and whereas the petitioner herein was employed as a Driver and subsequently purchased a lorry and earning not less than a sum of Rs.40,000/- per month and also earning income by means of agricultural operations and hence, prays for enhancement of maintenance at the rate of Rs.5,000/- per month from the date of petition.

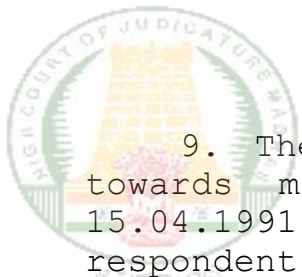
4. The petitioner herein has filed his counter, by contending all along that he has been complying with the order, awarding maintenance and is also suffering from poor eye sight, blood pressure and diabetics and at present, he is eking out his livelihood only as a Cleaner and he did not have such a capacity to pay the enhanced maintenance amount, as claimed by his wife.

5. During the course of enquiry, the respondent herself was examined as PW-1 and the petitioner himself was examined as RW-1 and no documents were marked. The Trial Court, on a careful consideration of the petition, counter and the oral evidences, has awarded a sum of Rs.2,500/- per month towards enhanced maintenance payable by the petitioner herein from the date of petition, vide order dated 24.01.2014 and aggrieved by the same, the present revision has been filed.

6. Mr.S.Palanivelayutham, learned counsel appearing for the petitioner, would vehemently contend that the petitioner is aged about 54 years and on account of his poor eye sight, he is unable to drive lorry and therefore, he is eking out his livelihood only as a Cleaner and the respondent has failed to prove that the petitioner is owning a lorry and earning income through the agricultural operations and therefore, a sum of Rs.2,500/- per month awarded towards enhanced maintenance is on the higher side and hence, prayed for interference.

7. Per contra, Mr.M.Ashokkumar, learned counsel appearing for the respondent, would contend that the District Court, vide order dated 08.10.1996, has enhanced the maintenance from Rs.150/- to Rs.300/- and only in the year 2011, the respondent has filed Crl.M.P.No.11510 of 2011, praying for enhanced maintenance and taking into consideration of the present position, the Trial Court has rightly awarded a sum of Rs.2,500/- per month towards enhanced maintenance and hence, prayed for dismissal of the present revision.

8. This Court has considered the rival submissions and perused the typed set of documents.



9. The respondent was awarded a sum of Rs.150/- per month towards maintenance in M.C.No.91 of 1991, vide order dated 15.04.1991 and aggrieved by the lesser quantum of maintenance, the respondent has filed revision before the District Court, Madurai, which enhanced the maintenance from Rs.150/- to Rs.300/- per month, vide order dated 08.10.1996 and only in the year 2011, the respondent came forward to file CrI.M.P.No.11510 of 2011 seeking enhancement of the monthly maintenance. Admittedly, the marital relationship between the petitioner and the respondent still subsists and the petitioner is now aged about 54 years and the respondent is aged about 49 years.

10. This Court, taking into consideration of the present inflationary trend and that the cost of essential commodities is increasing day-by-day, is of the considered view that the respondent should be given enhanced maintenance. The Trial Court has precisely taken into consideration of the said aspect, while ordering the petition. However, considering the submissions made by the learned counsel appearing for the respondent that on account of poor eye sight, he is unable carry on his normal avocation and further that he is suffering from age related ailments, blood pressure and diabetics, this Court is of the considered view that a sum of Rs.2,500/- per month awarded towards maintenance requires modification.

11. In the result, the present Criminal Revision Case is allowed and a sum of Rs.2,500/- awarded by the learned Judicial Magistrate, Sivakasi, Virudhunagar District, vide order dated 24.01.2014 made in CrI.M.P.No.11510 of 2011, is modified to that of Rs.2,250/- per month from the date of petition and the petitioner is granted three months time, from the date of receipt of a copy of this order, to pay arrears of maintenance and continue to pay monthly maintenance, as modified above, on or before 5th of every English succeeding Calendar month, failing which, it is open to the respondent to take appropriate action in accordance with law. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(C.O.,)

/True Copy/

Sub-Assistant Registrar

To

The Judicial Magistrate, Sivakasi, Virudhunagar District.

+1cc to Mr.S.Palanivelayutham, Advocate, in SR. No.7758

+1cc to Mr.M.Ashokkumar, Advocate, in SR. No.7625.