



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

Crl.R.C.(MD)NO.76 of 2015
and M.P.No.1 of 2015

K.Selvaraj

.. Revision Petitioner

Vs.

1.S.Vijaya Nirmala

2.Minor Vignesh

.. Respondents

Prayer: Criminal Revision Petition filed under Section 397 r/w 401 Cr.P.C., against the order dated 21.08.2014 passed in Crl.A.No.32 of 2014 on the file of Principal District and Sessions Judge, Thanjavur, modifying the order passed in M.C.No.41 of 2011 on the file of learned Judicial Magistrate, No.I, Thanjavur dated 20.12.2012.

For Petitioner :: Mr.P.Velmurugan

For Respondents :: Mr.S.Kanagarajan

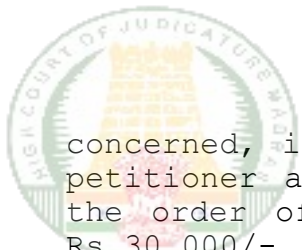
ORDER

The petitioner is the husband of the first respondent and the father of the 2nd respondent. The respondents filed M.C.No.41 of 2011 before the learned Judicial Magistrate, No.I, Thanjavur, claiming maintenance under the provisions of the Protection of Women from Domestic Violence Act, 2005. The trial Court directed the petitioner to pay a sum of Rs.4,000/- per head to the respondents every month towards their maintenance. But the request of the respondents to order for monthly relief for educational expenses of the 2nd respondent and for his medical treatment were denied. The petitioner was not aggrieved by the order passed by the learned Judicial Magistrate and therefore, he did not choose to file any appeal under the Provisions of the Domestic Violence Act. The respondents filed an appeal in Crl.A.No.32 of 2014 before the Principal Sessions Judge, Thanjavur, challenging the denial of monetary relief towards medical expenses and towards educational expenses of the 2nd respondent. The lower appellate Court by order dated 21.08.2014 allowed the appeal in part and directed the petitioner to pay a sum of Rs.30,000/- per year towards the educational expenses of the 2nd respondent and Rs.20,000/- per year towards his medical expenses. Challenging the same, the petitioner is before this Court with this petition.

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

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3. So far as the maintenance amount of Rs.4,000/- to each respondent herein, as ordered by the learned Judicial Magistrate is



concerned, it has become final, because there was no appeal filed by the petitioner against the same. Now, this revision is only concerned with the order of the lower appellate Court directing the petitioner to pay Rs.30,000/- towards educational expenses and Rs.20,000/- towards medical expenses of the 2nd respondent. It is brought to my notice that the 2nd respondent is suffering from obesity, i.e., at this young age of 16, he weighs 98 kgs. He needs constant treatment. So far as his education is concerned, according to the respondent, he needs atleast a sum of Rs.30,000/- per year.

4. But the learned counsel for the petitioner would submit that the petitioner is now retired from service and he has got no income. He is getting a meagre amount towards retirement benefits, out of which, he has to pay maintenance amount to the respondents. Therefore, it would be too difficult to pay Rs.30,000/- towards educational expenses and Rs.20,000/- towards medical expenses. He would further submit that the 2nd respondent has discontinued his education. Therefore, awarding of Rs.30,000/- may be set aside. So far as the expenses for the treatment, the learned counsel for the petitioner would submit that Rs.4,000/-, which has already been ordered by the Magistrate towards maintenance, would include medical expenses as well.

5. I have considered the above submissions.

6. From the very fact that the 2nd respondent is weighing 98 kgs at this young age would go to show that he needs treatment. It may be true that while ordering for maintenance at the rate of Rs.4,000/- to the 2nd respondent, the trial Court has taken his health condition. But, in my considered view, Rs.4,000/- ordered by the trial Court towards maintenance may not be sufficient to meet the medical expenses also. Therefore, towards the medical expenses, some more amount has to be paid by the petitioner. Regarding his education, though it is stated that the 2nd respondent has discontinued his education, there is no proof for the same. But having considered all the facts and circumstances of the case, I am of the view that the amount ordered by the lower appellate Court needs interference. In my considered view, directing the petitioner to pay Rs.10,000/- towards educational expenses and Rs.10,000/- towards medical expenses per year would meet the ends of justice.

7. In the result, the Criminal Revision Petition is allowed in part thereby modifying the order of the lower appellate Court in Criminal Appeal No.32 of 2014 and reducing the order for education expenses from Rs.30,000/- to Rs.10,000/- and also reducing the order for medical expenses from Rs.20,000/- to Rs.10,000/-. Thus, the petitioner is now directed to pay a total sum of Rs.20,000/- (Rupees twenty thousand only) per year. Accordingly, the order of the lower appellate Court is modified. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

/True Copy/



To

1.The Principal District and Sessions Judge,
Thanjavur

2.The Judicial Magistrate, No.I,
Thanjavur

+1cc to M/S.P.Velmurugan,Advocate in SR.No 35391

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