

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.06.2016

Coram

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

Crl.R.C.No.1100 of 2011
and MP.No.1 of 2011

A.K.Easwaran @ Vasanthakumar .. Petitioner/Respondent

Vs.

1.Sumathi

2.Minor Vinisha

3.Minor Vinith

[Minor 2 & 3 rep by their natural
guardian Mother 1st respondent) .. Respondents/Petitioners

Prayer :- Criminal Revision Petition filed under Sections 397 and 401 of Cr.P.C. against the order dated 11.03.2010 made in MC.No.34 of 2009 on the file of the learned Chief Judicial Magistrate, Erode.

For Petitioner : Mr.S.Dhanasekaran

For Respondents : No appearance

ORDER

The criminal revision petition is directed against the order passed by the learned Chief Judicial Magistrate, Erode in MC.No.34 of 2009 dated 11.03.2010, directing the respondent/husband to pay monthly maintenance of Rs.1,000/- to first petitioner/wife and Rs.750/- each to the petitioners 2 & 3/minor daughter and minor son, totally Rs.2,500/- p.m. to the petitioners with effect from 19.06.2009, together with cost of Rs.500/-.

2.The learned counsel for the petitioner contended that the trial Court directed the petitioner to pay monthly maintenance to respondents 1 to 3, without considering the fact that the income of the petitioner in HMOP.No.146 of 2006 is only Rs.2,000/-p.m. The respondents are attempting to file execution petition for recovery of maintenance amount of Rs.2,500/-p.m. The petitioner is not in a position to pay the above said maintenance amount. The trial Court failed to consider the respondent/wife is working in Government department and earning Rs.4,500/-p.m., hence, the order passed by the learned Chief

Judicial Magistrate, Erode has to be set aside and the revision has to be allowed.

3.In this case, the petitioner mainly contended that in HMOP.No.146 of 2006, he has stated that his monthly income is Rs.2,000/-p.m., the same has to be considered while passing the maintenance. The said arguments advanced by the learned counsel for the petitioner cannot be accepted, the HMOP filed in the year 2006, the present maintenance petition is filed in the year 2009. There is no evidence adduced on the side of the petitioner before the trial court to prove that the respondent/wife is working in Government department and earning Rs.4,500/-p.m. The petitioner/husband filed petition copy in HMOP.No.146 of 2006 and summon in MC.No.66 of 2006, no other documents are produced before the trial Court to prove the above said allegations.

4.The order of the trial Court in awarding maintenance amount of Rs.1,000/- to first respondent/wife and Rs.750/- each to the respondents 2 & 3/minor daughter and minor son, totally Rs.2,500/-p.m. to the respondents is minimum one and not an excessive amount in these days.

5.In view of the above said facts and circumstances, the order passed by the learned Chief Judicial Magistrate, Erode deserves merits and acceptance and this court finds no illegality or infirmity in the order passed by the trial court and the same does not warrant any interference by this court.

6.In the result, the criminal revision petition stands dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

To

The Chief Judicial Magistrate,
Erode.

Cr1.R.C.No.1100 of 2011

gj[co]
srg 14/07/2016