

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2016

CORAM :

THE HON'BLE MR.JUSTICE C.T.SELVAM

Crl.R.C.No.547 of 2016

and

Crl.MP.Nos.3658 and 8167 of 2016

Kumaravelu

... Petitioner

Vs.

1.Shanthi

2.Minor Sree Hariharan
Rep.by her Natural Guardian
& Mother Shanthi

... Respondents

Criminal Revision filed under Section 397 and 401 Cr.P.C.
against the order of learned Judicial Magistrate No.II, Hosur
passed in MC.No.11 of 2015 dated 31.12.2015.

For Petitioner : Mr.P.Saravana Sowmiyan

For Respondents : Mr.V.Sakkarapani

O R D E R

This revision arises against the order of learned Judicial
Magistrate No.II, Hosur passed in MC.No.11 of 2015 dated
31.12.2015.

2. The petitioner and the first respondent married on
24.01.1999. The petitioner/husband is working in BSF as
constable No.900098743 at Nagaland. They lived together in
Nagaland after marriage. During the regular medical checkup at
BSF, the petitioner was diagnosed as HIV positive and thereto he
obtained transfer to BSF, Coimbatore as Office Assistant. The
respondent issued a legal notice on 20.05.2015 claiming monthly
maintenance and medical expenses. The petitioner replied to the
same on 02.06.2015, calling upon the respondent/wife and son to
join him informing that on their failure to do so he would
initiate proceedings for restitution of conjugal rights.
Thereafter, the respondent filed MC.No.11 of 2015 on the file of
Judicial Magistrate No.II, Hosur under Section 125 Cr.PC seeking

monthly maintenance of Rs.25,000/-p.m. Though notice was duly served on the petitioner, he failed to appear and contest the case. The trial Court directed the petitioner to pay a sum of Rs.15,000/-p.m. towards maintenance to wife and son. Aggrieved against the said order of maintenance, the petitioner is before this Court.

3. Heard both sides.

4. Both the husband and wife are HIV patients. Fortunately the son is not. The petitioner's gross salary is Rs.36,348/-p.m. and net salary is Rs.23,318/-p.m. and he is contributing a sum of Rs.13,000/-p.m. towards his GPF account. Therefore, the petitioner is contributing higher sum towards GPF only to protect his own interest. It is stated that only because of the petitioner, the wife was also affected with the disease. The petitioner is duty bound to protect the interests of his wife and son. Finding no reason to interfere with the order of the trial Court directing payment of maintenance of Rs.15,000/-p.m. to the wife and son, this Court confirms the order of the trial Court.

5. In the result, the criminal revision stands dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

tsh

To

1.The Judicial Magistrate No.II,
Hosur.

2.Through The Chief Judicial Magistrate,
Krishnagiri.

+1cc to Mr.P.Saravana Sowmiyan, Advocate, S.R.No.72029
+1cc to Mr.V.Sakkarapani, Advocate, S.R.No.72097

Cr1.R.C.No.547 of 2016

ALA(CO)
CA(23/12/2016)