

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09 -09-2016

(Orders reserved on 22.07.2016)

Coram

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

Crl.R.C.No.799 of 2016

And

Crl.M.P.No. 5970 of 2016

E.Sivaji ... Petitioner/Respondent

Vs

Sathiya @ Sathiyabama ... Respondent/Petitioner

PRAYER: Criminal Revision case filed under Section 397 & 401 of Cr.P.C., to call for the records and set aside the order in Crl.M.P.No. 163 of 2014 dated 26.02.2016 on the file of Family Court, Vellore.

For Petitioner : Mr. G.K.Sekar

For Respondent : Mr. E.Kannadasan

O R D E R

The Criminal Revision Case is directed against the order passed by the learned Family Court, Vellore, made in Crl.M.P.No. 163 of 2014 dated 26.02.2016 modifying the compensation amount and directing the revision petitioner to pay Rs.3,500/- per month was enhanced to Rs.6,000/- per month from the date of petition.

2. The respondent/petitioner herein is the wife of the revision petitioner/husband. It is admitted by both parties that the respondent/wife has already filed a Maintenance Case in M.C.No. 11 of 2009 and in that case, a sum of Rs.3,500/- per month was awarded for maintenance of the respondent/petitioner herein. After dismissal of M.C.No. 11 of 2009, the respondent/wife herein has filed Crl.M.P.No. 163 of 2014 on the file of the learned Family Court, Vellore, to enhance the maintenance already awarded by the Court and by an order, dated 26.02.2016, the learned Family Court, Vellore, has enhanced the maintenance amount to Rs.6,000/- per month.

3. The learned counsel for the revision petitioner/husband contended that the trial Court, without any materials, enhanced the maintenance amount to Rs.6,000/- per month and the same is baseless. Hence, the order passed by the learned Family Court, Vellore, is liable to be quashed. Hence, the present revision has been filed by the revision petitioner/husband. He further contended that the respondent/wife herein has filed M.C.No. 49 of 2009 on the file of learned Chief Judicial Magistrate, Vellore and the same was allowed on 28.05.2010. Against which, the revision petitioner/husband has filed Cr.R.P.No. 1 of 2014 on the file of the learned First Additional District and Sessions Judge, Vellore and by an order, dated 23.02.2015, a sum of Rs.5,000/- per month was awarded as maintenance and the revision petitioner/husband is paying the said amount to the respondent/wife. During pendency of Cr.R.P.No. 1 of 2014 the revision petitioner has paid Rs.5000/- per month and finally the First Additional Sessions Judge allowed the appeal and remanded back M.C.No. 49 of 2009 to the file of learned Chief Judicial Magistrate, Vellore and M.C.No. 49 of 2009 is pending. The Lower Court, without considering the above facts, has passed the impugned order and the same is liable to be set aside. Hence, the learned counsel prays for allowing the Criminal Revision Case by setting aside the order of the trial Court.

4. The learned counsel for the respondent contended that the trial Court after analyzing the entire facts and circumstances of the case, passed an appropriate order and there is no illegality or infirmity in the order of the trial Court. Hence, prays for dismissal of the Criminal Revision Case by confirming the order of the trial Court.

5. The revision petitioner has paid the enhanced amount already passed by the Family Court in M.C.No. 11 of 2009 at the rate of Rs.3,500/- per month which is now enhanced to Rs.6,000/- per month, is the impugned order in this revision. Further on the side of the petitioner, the learned counsel for the revision petitioner submits that in M.C.No. 49 of 2009, maintenance was ordered for a sum of Rs.5,000/- per month and the revision petitioner went upto to Cr.R.P.No. 1 of 2014 on the file of the learned First Additional District and Sessions Judge, Vellore and the learned Appellate Court remanded the matter to the learned Chief Judicial Magistrate and M.C.No. 49 of 2009 is still pending. On verification of the records produced on either side, M.C.No. 49 on the file of the learned Chief Judicial Magistrate, Vellore is subsequently transferred to Family Court, Vellore and numbered as M.C.No. 11 of 2009. Further, it is admitted by both parties that the revision petitioner-husband is paying Rs.4,000/- per month. In M.C.No. 11 of 2009, the respondent was directed to pay Rs.3,500/- per month as per order dated 23.11.2009 and the respondent is paying at

the rate of Rs.3,500/- per month + 500 Rs.4,000/- per month. Further, Rs.3,500/- per month was awarded in the year 2009. Now after a lapse of five years, the present application has been filed to enhance the maintenance from Rs.5,000/- to Rs.6,000/-. The trial Court after considering the entire facts and circumstances and the enhancement is only after a lapse of years from the previous order and found reasonable to enhance maintenance Rs.3,500/- to Rs.6,000/- which is very reasonable and it cannot be anyway deemed as excessive one.

6. In view of the above facts and circumstances, this Court finds no illegality or infirmity in the order passed by the learned Family Court, Vellore and the same does not warrant any interference by this Court.

7. In the result, the Criminal Revision Case stands dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

The Family Court,
Vellore.

Copy to

The Section Officer,
Criminal Section, High Court,
Madras.

+1cc to Mr.E.Kannadasan, Advocate SR.51460
+1cc to Mr.G.K.Sekar, Advocate Sr.51807

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And
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