

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2016

CORAM:

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

Crl.R.C.No.812 of 2016

1. Samundeshwari
2. Minor. Abenesh
Rep. by his Mother Samundeshwari. ... Petitioners

Vs.

R.N.Siva ... Respondent

Prayer: Criminal Revision Case filed under Section 397 r/w.401 of the Code of Criminal Procedure, against the order passed by the learned Principal Sessions Judge, Villupuram, in Crl.R.C.No.38 of 2014, dated 07.04.2015.

For Petitioners: Mr.H.Rajesh

For Respondent : Mr.M.R.Senthilkumar

ORDER

This Criminal Revision Case is directed against the order passed by the learned Principal Sessions Judge, Villupuram, in Crl.R.C.No.38 of 2014, dated 07.04.2015.

2. The learned counsel appearing for the petitioners would contend that the petitioners herein have filed a maintenance case in M.C.No.20 of 2012 under Section 125 of Cr.P.C. before the learned Judicial Magistrate, Thirukoilur, against the respondent herein claiming maintenance of Rs.6,000/- to the first petitioner and Rs.3,000/- to the second petitioner. The learned Judicial Magistrate, Thirukoilur, after perusing the evidence and the documents produced by both sides, partly allowed the said petition and directed the respondent herein/husband to pay a sum of Rs.1,000/- to the first petitioner and Rs.750/- to the second petitioner, totally Rs.1,750/- per month towards maintenance amount and directed to pay the arrears of maintenance amount from the date of petition till the date of the said order, within a period of two months and thereafter to pay the maintenance amount before 5th of every Month. As against the said order passed by the learned Judicial Magistrate, Thirukoilur, the respondent herein has filed an appeal before the learned Principal Sessions Judge, Villupuram and the

learned Principal Sessions Judge, after perusing the judgment of the learned Judicial Magistrate, finally, set aside the judgment dated 23.05.2014 of the learned Magistrate and directed the respondent herein/husband to deposit the maintenance amount before the Court and remitted the matter back to the trial Court for disposal, by permitting both the parties to adduce oral and documentary evidence and to pass orders according to law. As against the said order passed by the learned Principal Sessions Judge, Villupuram, the present criminal revision case is preferred by the revision petitioners before this Court.

3. The learned counsel appearing for the petitioners mainly contended that the First Appellate Court viz., Principal Sessions Judge, Villupuram, without considering the facts and circumstances of the case, given a finding and remitted the matter back to the learned Judicial Magistrate, Tirukoilur, for fresh disposal. The learned counsel further contended that before the trial Court, the respondent herein/husband was given so many chances to adduce oral and documentary evidence, but he has not availed the opportunity and only in the Principal Sessions Court, Villupuram, the respondent herein/husband contended that he wanted to produce some additional documentary evidence which is not permissible according to law and only to drag on the proceedings, the matter was remitted to the trial Court for disposal. Hence, the learned counsel for the petitioners prayed that this criminal revision case may be allowed and the order passed by the learned Principal Sessions Judge, Villupuram, in CrI.R.C.No.38 of 2014 may be set aside and the order of the learned Judicial Magistrate may be confirmed.

4. The learned counsel appearing for the respondent would contend that the respondent/husband is ready to proceed with the case at any time, if one more opportunity was given to the respondent to prove his case, since the learned Principal Sessions Judge, Villupuram, has passed an order in CrI.R.C.No.38 of 2014 remitting the matter back to the trial Court, by permitting both the parties to adduce oral and documentary evidence to prove their case.

5. In this case, on a perusal of the records, it is seen that the respondent herein/husband has not adduced any oral and documentary evidence. According to the respondent, he was not given an opportunity to adduce oral and documentary evidence. Hence, the learned Principal Sessions Judge, Villupuram, has rightly passed order by setting aside the order passed by the learned Judicial Magistrate, Tirukoilur, and remitting the matter back to the trial Court for fresh disposal, and also permitting both the parties to adduce oral and documentary evidence. There is no infirmity or illegality in the order passed by the learned Principal Sessions Judge, Villupuram. This Court finds no reason to interfere with the order dated 07.04.2015 passed by the

learned Principal Sessions Judge, Villupuram, in CrI.R.C.No.38 of 2014 which does not warrant any interference by this Court and hence, the criminal revision case is liable to be dismissed.

6. In the result, this Criminal Revision Case is dismissed with a direction to the learned Judicial Magistrate, Tirukoilur, to dispose of the case in M.C.No.20 of 2012, within a period of one month from the date of receipt of a copy of this order and report the same to this Court.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

Jrl

To

1. The Principal Sessions Judge, Villupuram.
2. The Judicial Magistrate, Tirukoilur.

+1cc to Mr.M.R. Senthilkumar, Advocate, S.R.No.38332

+1cc to Mr.H. Rajesh, Advocate, S.R.No.38352

GJII(CO)
EU(03/08/2016)

CrI.R.C.No.812 of 2016

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