

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Orders Reserved on : 20.07.2016)

DATED: 09.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

Crl.R.C.No.876 of 2016

and

Crl.M.P.No.6725 of 2016

Mohammed Noufel

... Petitioner/Respondent

Vs.

1. Nisha Begum @ Nishana

2. Minor M.Nas Mohammed

(Minor rep. by her mother and natural
guardian, the first respondent herein)

... Respondent/Petitioner

Prayer: Criminal Revision Case filed under Section 397 r/w.
401 of the Code of Criminal Procedure, to set aside the order
passed in M.C.No.66 of 2011, dated 03.12.2015 on the file of
the learned Principal Judge, Family Court, Coimbatore, and
allow the criminal revision case.

For Petitioner : Mr.A.Ansar

For Respondent : Mr.R.Vasudevan

ORDER

This Criminal Revision Case is directed against the order
passed by the learned Principal Judge, Family Court,
Coimbatore, in M.C.No.66 of 2011, dated 03.12.2015, directing
the revision petitioner to pay a sum of Rs.3,500/- per month
to the respondents herein from the date of petition.

2. It is admitted by both sides that the revision
petitioner herein is the husband of the first respondent
herein and the father of the second respondent herein. It is
also an admitted fact that the marriage between the revision
petitioner and the first respondent took place on 10.03.2004
at Fathima Gani Kalyana Mandapam, Podanur Road, Coimbatore, as
per Muslim Rites and Customs.

3. The learned counsel for the revision petitioner would
contend that the trial Court failed to consider the fact that

the revision petitioner is getting salary of Rs.20,000/- per month and he is unable to pay the quantum fixed by the trial Court. It is further contended that the trial Court, has not followed the Constitutional Bench judgment of the Apex Court reported in 2001(7) SCC page 740 (Daniel Lathitt and others Vs. Union of India) with regard to the maintenance of divorced Women, who has not remarried and who has not able to maintain herself, after the added period can proceed as provided under Section 4 of the Women Protection of Rights on Divorce Act, 1986, against her relatives who are liable to maintain her in proportion to the properties which the inherent on her death, according to Muslim law, directed the revision petitioner to pay the maintenance amount. In view of the above, the order of the trial Court is erroneous and the said order may be set aside and the criminal revision case may be allowed.

4. The learned counsel for the respondents would mainly contend that the trial Court, after considering the entire facts and circumstances of the case, finally allowed the maintenance petition and directed the respondent therein/revision petitioner to pay a sum of Rs.3,500/- per month to the petitioners 1 and 2 therein towards maintenance . Hence, there is no infirmity or illegality in the order passed by the learned Principal Judge, Family Court, Coimbatore, and therefore, he prayed that the Criminal Revision Case may be dismissed.

5. This Court has considered the rival submissions made by the learned counsel on either side and perused the entire materials produced on either side.

6. In this case, the learned trial Judge, at paragraph No.9 of her order, had observed as follows:-

"After considering all these aspects and also the respondent expressed his willingness to pay a sum of Rs.3,500/- per month to the petitioners as maintenance that was also agreed by the petitioners to be awarded as maintenance to them per month, the respondent is directed to pay a sum of Rs.3,500/- per month as agreed by him to the petitioners towards maintenance from the date of petition and the point for consideration is answered accordingly."

7. On a perusal of the above order, it is seen that the revision petitioner himself has agreed to pay maintenance at the rate of Rs.3,500/- per month to the respondents herein viz., wife and daughter. Now, the petitioner has come forward with the present revision and the said petition is not at all maintainable. Further, even the petitioner himself has admitted in the grounds that he is receiving salary of Rs.20,000/- per month. Hence, considering the monthly income of the petitioner as admitted by him in the grounds of

criminal revision, the maintenance amount of Rs.3,500/- per month awarded by the trial Court will not be, at any rate, excessive one. The petitioner has sufficient means to pay the monthly maintenance to his wife and daughter as ordered by the trial Court.

8. In view of the above facts and circumstances of the case, this Court is of the considered view that there is no illegality or infirmity in the order dated 03.12.2015 passed in M.C.No.66 of 2011, by the learned Principal Judge, Family Court, Coimbatore, directing the revision petitioner herein to pay a sum of Rs.3,500/- per month to the respondents herein. This Court finds no reason to interfere with the orders passed by the learned trial Judge, which does not warrant any interference by this Court and hence, the criminal revision case is liable to be dismissed.

In the result, the Criminal Revision Case is dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

Jrl

To

The Principal Judge,
Family Court, Coimbatore.

1 cc to M/s.R.Vasudevan, Advocate, sr.51581

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