

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.06.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl. O.P. No.27297 of 2015

Angamuthu .. Petitioner/Respondent/
Respondent

Versus

Amala .. Respondent/Petitioner/
Petitioner

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to modify the order dated 09.02.2015 passed in FCCMP. No.12 of 2014 in M.C.No.1 of 1991 on the file of Family Court, Dharmapuri.

For Petitioner : Mr.M.Mushtaq Ahmed

For Respondent : Mr.A.Sakthivel

O R D E R

This petition has been filed to modify the order dated 09.02.2015 passed in FCCMP. No.12 of 2014 in M.C.No.1 of 1991 on the file of the Family Court, Dharmapuri.

2.Heard the learned counsel for the petitioner; learned counsel for the respondent and perused the materials placed on record.

3.For the sake of convenience, the parties will be referred to by their name.

4.Angamuthu got married to Amala and they have two children through the wedlock. Since Amala was deserted, she filed M.C.No.1 of 1991 before the learned Judicial Magistrate, Dharmapuri, under Section 125 Cr.P.C. claiming maintenance for herself and two children. The learned Judicial Magistrate by order dated 12.02.1992 directed Angamuthu to pay maintenance of Rs.200/- per month to Amala and Rs.150/- each to the children. Aggrieved by the order passed by the learned Judicial Magistrate, Dharmapuri, Angamuthu filed Crl.R.C.No.48 of 1992

before the District Sessions Court, Krishnagiri and the same was dismissed, thereby the Trial Court order stood confirmed. While so, Amala filed an application in FCCMP.No.12 of 2014 in M.C.No.1 of 1991 before the Family Court, Dharmapuri, for enhancement of maintenance and after hearing both parties, the learned Family Court Judge, Dharmapuri has enhanced the maintenance to Rs.2,500/- per month payable to Amala from October 2010. Challenging which, Angamuthu is before this Court.

5.Heard Mr.M.Mushtaq Ahmed, learned counsel appearing for Angamuthu and Mr.A.Sakthivel, learned counsel appearing for Amala.

6.Mr.M.Mushtaq Ahmed, learned counsel appearing for the petitioner submitted that the Family Court ought not to have granted enhancement from the date of petition and directed Angamuthu to pay the maintenance only prospectively from the date of order. I am unable to countenance his submission in view of the judgment of this Court in Kamatchi vs. Veluchany reported in [1996 1 MLJ 665] wherein this aspect has been gone into in detail. Section 125 Cr.P.C. is a beneficial legislation intended to fetch financial support for deserted wives and parents. The learned counsel further contended that Angamuthu had retired from service and that even in his official records, the name of Amala does not figure as a member of the family.

7.In the considered opinion of this Court, absence of the name of Amala in the official record cannot be a reason to conclude that Amala is not his wife especially in the teeth of the findings of the two Courts below. Apart from that, the statement given to the employer is a self-serving statement and may not be an estoppel as against the third party much less against Amala, who is an aggrieved person. This Court is of the view that a sum of Rs.2,500/- is a minimal amount in the present day cost of living and therefore, this Court finds no justification to interfere with the order dated 09.02.2015 passed by the Family Court, Dharmapuri in FCCMP. No.12 of 2014 in M.C.No.1 of 1991.

8.With the above directions, this Criminal Original Petition is dismissed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

sri

To

- 1.The Family Court, Dharmapuri.
- 2.The Public Prosecutor,
High Court, Madras.

1 cc to Mr.M.Mushtaq Ahmed, Advocate,sr.36434

1 cc to Mr.A.Sakthivel, Advocate,sr.36728

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pvs co
kra 19.07.2016



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