

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Crl.O.P.No.24328 of 2009
& M.P.No.1 of 2009

1.C.Shanmugam
2.C.Mani

...Petitioners/Accused

Vs.

C.Chinnappa

...Respondent/De-facto
complainant

Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records in Crl.R.P.No.9 of 2008 dated 19.08.2008 on the file of the Additional District-cum-Sessions Court (Fast Track Court), Vellore.

For Petitioners : Dr.G.Krishnamoorthy

For Respondent : No Appearance

O R D E R

The petitioners have come up with this Criminal Original petition seeking to call for the records and quash the proceedings as against them, pending on the file of the Additional District-cum-Sessions Court (Fast Track Court), Vellore, in Crl.R.P.No.9 of 2008.

2. Petitioners 1 and 2 are the second and third sons of the respondent herein. The respondent viz. C.Chinnappa along with his wife viz. Lakshmi filed M.C.No.20 of 2004 under Section 125 Cr.P.C. seeking maintenance before the Chief Judicial Magistrate, Vellore. Petitioners are retired military officers, receiving pension and also placed in good jobs. During the pendency of the proceedings, petitioners' mother died. The respondent being the father of the petitioners herein, was owning 2.40 acres of lands and he allotted the same to his three sons and kept 40 cents of land for his own use. It is alleged that the petitioners herein have not allowed the respondent/father to cultivate in the said 40 cents. It is the case of the respondent that since he is aged about 75 years and wanted to lead a peaceful life at his old age, he filed the said Maintenance Case seeking maintenance from his sons, for livelihood.

3. After analysing the evidence and witnesses adduced, the Court below had ordered Rs.400/- as monthly maintenance to the respondent/father. Challenging the said order of the Court below, the petitioners/sons filed Crl.R.P.No.9 of 2008 before the Additional District-cum-Sessions Court (Fast Track Court), Vellore and the same stood dismissed, confirming the order of the Chief Judicial Magistrate, Vellore. Aggrieved over the same, the petitioners have come up before this Court with this Criminal Original Petition.

4. It is the case of the petitioners that in the absence of proper evidence, the Court below has erred in awarding maintenance to the respondent by taking into account the income of the petitioners. Though the respondent/father is living with his first son, brother of the petitioners herein, who also owns the same extent of lands as that of the petitioners, the respondent has not chosen to claim maintenance from him. Further, it is stated that the respondent is holding 40 cents of land, cultivating the same and earning some income out of it and hence, the amount of Rs.400/- fixed as maintenance is on the higher side.

5. Heard the learned counsel for the petitioner and perused the materials available on record.

6. After analyzing the entire evidence, the Court below came to the conclusion that the petitioners herein are well placed when compared to their elder brother, with whom the respondent/father is living. Since the respondent/father, at his old age, being not able to maintain himself has sought for maintenance from his own sons, the Court below awarded a meager amount of Rs.400/- towards maintenance. However, the said order was confirmed by the Appellate Court.

7. It is seen from the records that at the time of filing of the Maintenance Case, i.e. in the year 2004, the respondent/father was aged about 75 years and during the pendency of the Maintenance Case itself, the mother of the petitioners herein passed away. It is very unfortunate that the petitioners' father has not been taken proper care of at his old age. On noting persons like that of the petitioners, the Parliament has legislated the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, which received the assent of the President on 29.12.2007 and published in the Gazette of India, Ext. Pt.II, S.1, dated 31.12.2007, which provides effective provisions for the maintenance and welfare of parents and senior citizens. The objects and reasons of the said enactment are extracted below:

"Traditional norms and values of the Indian society laid stress on providing care for the elderly. However, due to withering of the joint family system, a

large number of elderly are not being looked after by their family. Consequently, many older persons, particularly widowed women are now forced to spend their twilight years all alone and are exposed to emotional neglect and to lack of physical and financial support. This clearly reveals that ageing has become a major social challenge and there is a need to give more attention to the care and protection for the older persons. Though the parents can claim maintenance under the Code of Criminal Procedure, 1973, the procedure is both time-consuming as well as expensive. Hence, there is a need to have simple, inexpensive and speedy provisions to claim maintenance for parents.

2. The Bill proposes to cast an obligation on the persons who inherit the property of their aged relatives to maintain such aged relatives and also proposes to make provisions for setting up oldage homes for providing maintenance to the indigent older persons.

The Bill further proposes to provide better medical facilities to the senior citizens and provisions for protection of their life and property.

3. The Bill, therefore, proposes to provide for:

(a) appropriate mechanism to be set up to provide need-based maintenance to the parents and senior citizens;

(b) providing better medical facilities to senior citizens;

(c) for institutionalism of suitable mechanism for protection of life and property of older persons;

(d) setting up of oldage homes in every district."

8. In the case on hand, the petitioners have neglected to maintain a senior citizen, who is none other than their father. The act of the petitioners is not a welcome one. They should have realised that their father's age will not go in a descending order to get energy and strength. The children will get old and they will also face a similar situation. They may also be taken to old age homes by their children. The value of youngsters who take care of their parents is on the decline. The petitioners should also realize that not taking care of their parents and abandoning them is a punishable one.

9. In view of the above, I find that the monthly maintenance of Rs.400/- awarded by the Court below is too meagre when compared to the present cost of living index. Hence, I do not find any reason to interfere with the order of the Court below. Accordingly, the petitioners are directed to deposit the entire arrears of maintenance, if not already deposited, within a period of two months, from the date of receipt of a copy of this order. It is also made clear that on such deposit being made the respondent/father is entitled to withdraw the same, after filing proper petition before the court below.

This Criminal Original Petition is disposed of accordingly. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

smi/aeb

To :

1. The Additional District-cum-Sessions Court
(Fast Track Court), Vellore.
- 2.-do- Through The Principal Sessions Judge, Vellore.
3. The Public Prosecutor, High Court, Madras.

Crl.O.P.No.24328 of 2009

RSY(CO)
Eu 18.03.16

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