



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.04.2016

CORAM

THE HONOURABLE MR.JUSTICE V.S. RAVI

Crl.R.C.(MD.)No.176 of 2014

and

M.P(MD).No.1 of 2014

M.Karthikeyan

... Revision Petitioner/Petitioner/
Respondent

Vs.

1. K.Vasavi

2. Minor.Saswarth Meyyappan

(The 2nd Respondent represented through
the guardian and mother, namely, the
1st respondent)

... Respondents/Respondents/
Petitioners

PRAYER : Criminal Revision Case is filed under Sections 397 r/w 401 of Cr.P.C, to call for the records in Crl.M.P.No.1681 of 2013 in M.C.No.2 of 2010 on the file of the learned District Munsif cum Judicial Magistrate, Natham, dated 27.01.2014 and to set aside the order in Crl.M.P.No.1681 of 2013 in M.C.No.2 of 2010 and to allow the petition in Crl.M.P.No.1681 of 2013.

For petitioner : Mr.M.S.Balasubramaniya Iyer

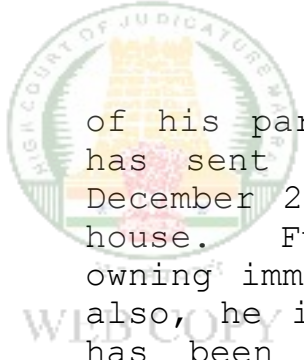
For respondents : Mr.N.Ananthapadmabhan

Order Reserved on : 17.02.2016

Order Pronounced on : 26.04.2016

O R D E R

The revision petitioner is the husband of the first respondent. The respondent Nos.1 and 2 have filed M.C.No.2 of 2010, before the learned District Munsif and Judicial Magistrate, Natham. It is stated in M.C.No.2 of 2010 that the marriage between the first respondent and the revision petitioner viz., Karthikeyan has been solemnized on 21.11.2007, and out of wedlock, the second respondent also, born to them and thereafter, the revision petitioner, used to take liquor and also, he has taken the advice



of his parents and sister, and further, the revision petitioner has sent out the respondents from his house in the month of December 2008 and the first respondent is living in her mother's house. Further, it is stated that the revision petitioner is owning immovable properties, with the value of so many lakhs and also, he is working and earning income and the Advocate Notice has been issued to the revision petitioner, but he has not received the same. Therefore, the first respondent has come forward to file the petition, claiming Rs.5,000/- each as monthly maintenance for the respondent Nos.1 and 2.

2. The Trial Court has passed an Order in M.C.No.2 of 2010 (filed by the respondents), dated 27.05.2011, and also, directed the revision petitioner to pay Rs.2,500/- each to the respondent Nos.1 and 2, as maintenance, from the date of filing of the petition. Further, the revision petitioner has filed the Criminal Revision case, as against the order made in M.C.No.2 of 2010, before this Court and this Court has partly allowed the petition, and fixed Rs.2,000/- each, as maintenance to the respondents herein.

3. Further, the revision petitioner has filed Cr.M.P.No.1681 of 2013, before the learned District Munsif cum Judicial Magistrate, Natham, to modify and set aside the order, directing the revision petitioner to pay the said amount, towards the maintenance of the respondents. The Trial Court has dismissed the above mentioned petition, on 27.01.2014.

4. Being aggrieved the said order dated 27.01.2014 in Crl.M.P.No.1681 of 2013, by the Trial Court, the revision petitioner/husband has filed the present Criminal Revision Petition, and primarily contended that the impugned order of the Trial Court is contrary to law and also, against the weight of evidence and the materials on record and further, opposed to the facts and probabilities of the case.

5. Further, it is stated in the Grounds of Revision that the Trial Court has failed to appreciate and apply the correct principles of law to the facts of the case. The Lower Court has failed to appreciate the scope and object of the proceedings under Section 127 of Cr.P.C. The Trial Court has failed to note that the revision petitioner is not employed now and he is not having any income of his own and he is unable to maintain himself and therefore, he is not able to pay maintenance amount to the respondents. The Trial Court has failed to consider the documents exhibited in the case by the petitioner. There is no evidence to prove the earnings of the revision petitioner. The Trial Court has failed to consider that the first respondent has inherited the ~~properties~~ ^{share} of the deceased father and also, the first respondent would have received a huge amount as the consideration from the properties. The Trial Court has failed to note that the



respondents have not examined any witness on their side. The Trial Court has failed to note that the first respondent after getting the maintenance amount has beaten the petitioner's father with iron rod and caused bleeding injuries on his body and he has fallen down and also got bleeding injury and a complaint has been lodged with the police on the incident and it is under investigation. The F.I.R. copy has been marked as Ex.P.8 and the said matter has been published in all the Daily News Papers and the said document is marked as Ex.P.9. The Trial Court has failed to consider the documents of Ex.P.Nos.1,7 to 9 and also failed to consider the evidence given by P.W.2.

6. The pertinent point that arises for consideration in the present Criminal Revision Petition which has been filed as against the Order passed in Crl.M.P.No.1681 of 2013 in M.C.No.2 of 2010, is as follows:-

Whether the present Criminal Revision Petition has to be allowed for the reasons and grounds stated in the Revision Petition and also for the submissions made on behalf of the revision petitioner?

7. Analysis, discussions and findings with regard to the above mentioned point:-

This Court has considered the submissions of the learned counsel appearing for the both parties, and also perused the impugned order passed by the trial Court. In the present case, the revision petitioner herein has clearly admitted that the marriage has been solemnized between the revision petitioner herein and the first respondent on 21.11.2007 and they have got the child, namely, the second respondent herein. Further, the revision petitioner himself, has admitted that H.M.O.P.No.123 of 2009 has been filed by the revision petitioner herein, for granting divorce and also, H.M.O.P.No.267 of 2013 has been filed by the first respondent herein, for the relief of restitution of conjugal rights.

8. Further, the revision petitioner herein admitted that the case, in M.C.No.2 of 2010 has been filed by the first respondent herein, for Maintenance amount for the first respondent, namely, the wife of the revision petitioner herein and the second respondent, namely, the minor son of the revision petitioner herein. After hearing both sides, the Court has ordered to pay Rs.2,500/- towards Maintenance for each of the respondents herein and against that order, the revision petitioner herein has filed Criminal Revision Case No.525 of 2011, before this Court and this Court has reduced the Maintenance amount as Rs.2,000/-, as per the details enclosed at Page No.9 of the typed set papers and



in the said Criminal Revision Case No.525 of 2011, this Court has categorically observed at Para Nos.5 and 6, as follows:-

"From the evidence, it is seen that the parents of the revision petitioner are working and they are the earning member of his family. The revision petitioner also residing with them in his own house and according to him, the house is in a dilapidated condition. From the evidence, it is further seen that his father is also working and his mother is a teacher by profession. So far, the Trial Court has considered that the petitioner is earning a sum of Rs.7,500/- p.m., apart from other income. Considering all these aspects, the Trial Court has granted a sum of Rs.2,500/- each to the respondents herein towards maintenance.

Considering the evidence of the parties in whole, I am of the view that the respondents are entitled to get a sum of Rs.2,000/- each from the revision petitioner herein, towards maintenance from the date of maintenance petition. Even though, no salary certificate has been produced to the satisfaction of this Court, it is informed that a sum of Rs.33,000/- has already been deposited by the revision petitioner before the trial Court and the learned counsel for the respondents also contended that the same has been received by filing separate application. The revision petitioner is directed to deposit the balance arrears amount after deducting the arrears amount already paid. The revision petitioner is also directed to pay the arrears amount and future maintenance amount payable to the respondents directly to the first respondent/wife and get receipt or by depositing into Court."

9. Further, the revision petitioner has clearly admitted in the revision petition that the father of the first respondent has expired in the year 2008 and the first respondent has inherited the property, due to the death of her father and the worth of the said property is Rs.50,00,000/- and also, the first respondent is getting yearly income of Rs.60,000/- from the said property. However, in CrI.R.C.No.525 of 2011, this Court has passed an order on 16.04.2012 itself, directing the revision



petitioner herein, to pay Rs.2,000/- as Maintenance amount to each of the respondents. It is only, after thr, passing of the said order, the revision petitioner herein has filed a modification petition in Crl.M.P.No.1681 of 2013 before the Trial Court, as per the details enclosed at Page No.11 of the typed set of papers. However, on 16.04.2012 itself, this Court has passed an order, directing the revision petitioner herein to pay Rs.2,000/- each, as Maintenance to the respondents. Further, the revision petitioner herein has admitted that the father of the first respondent has expired in the year 2008 itself and the first respondent herein has got huge property, worth of Rs.50,00,000/- and also, the first respondent herein is getting Rs.60,000/- per year from the said property, and hence, the revision petitioner has filed the modification petition, after the death of the father of the first respondent herein, in the year 2008.

10. Further, in the counter affidavit of the said modification petition filed by the respondents herein, enclosed at page No.14 of the typed set of papers, the first respondent has categorically stated that she has not got any movable or immovable properties and she has not got any source of income. Further, the first respondent herein has stated that already, this Court has passed the order in Crl.R.C.(MD)No.525 of 2011 and directed the revision petitioner herein, to pay Rs.2,000/- each to the respondents herein, as the Crl.R.C.(MD)No.525 of 2011 petition has been filed by the revision petitioner herein.

11. Further, on a perusal of the entire records, it is found that there is sufficient and significant force in the said contention of the first respondent. Further, in order to prove that the first respondent herein has got the property, worth of Rs.50,00,000/- and also, the first respondent has got Rs.60,000/- as yearly income from the said property, the revision petitioner herein has filed Ex.P.1 Computer Patta in the name of the first respondent's father only, before the Trial Court. Further, the Trial Court has clearly observed in the impugned order that Ex.P.1 Computer Patta is also in the name of the first respondent's father along with two others and other than the said Patta, no other relevant material has been produced on the side of the revision petitioner herein, to show that the huge properties have been inherited by the first respondent herein, after the death of her father in the year 2008 and also, the first respondent herein is getting substantial income of Rs.60,000/- from the said properties. Again, the Trial Court has rightly observed that based on the said Patta alone, it cannot be concluded that the first respondent herein, has inherited the property, worth of Rs.50,00,000/- and also, she is getting Rs.6,00,000/- per annum, as income from those properties. <https://hdservices.hc.madras.gov.in/hdservices> correctly observed by the Trial Court that the revision petitioner herein has not produced any valid material records to establish that the first respondent has got any

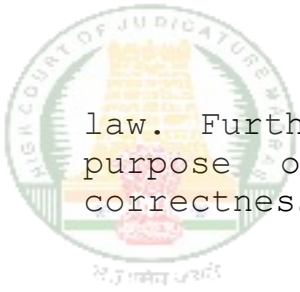


immovable property, and also, in actual possession of the said immovable property and also, getting huge income of Rs.6,00,000/- per annum, from the said property.

12. Further, on the valid reasons only, the Trial Court has come to the right conclusion that the revision petitioner is not entitled to set aside or for any modification of already passed maintenance amount. Further, on a perusal of the materials brought on record and also, from the submissions made on behalf of both parties herein, it is seen that various litigations are going on between the revision petitioner herein and the first respondent herein, in various Courts. On that ground only, it is seen that the petitioner is making repeated attempts to delay the payment of already ordered maintenance, payable to the first respondent, namely, the wife of the revision petitioner and the second respondent, namely, the minor son of the revision petitioner herein. Actually, the revision petitioner herein has not established that the first respondent herein has inherited huge property, worth of Rs.50,00,000/-, due to the death of her father, in the year 2008, and also, the first respondent herein is getting Rs.6,00,000/- per annum, from the said properties. On the other hand, the first respondent has categorically stated in the counter affidavit that she has not got any movable and immovable properties and there is no source of income to her and hence, the respondents herein are totally depending upon the maintenance amount to be given by the revision petitioner herein.

13. Further, the provisions of Section 397 of Cr.P.C., gives the High Court, the jurisdiction to consider the correctness, legality or propriety of finding, or order and as to the regularity of the proceedings of any inferior court. While considering the legality, propriety or the correctness of a finding or a conclusion, normally, the revising Court does not dwell at length upon the facts and evidence of the case. The Court in revision considers the materials only to satisfy itself about the correctness, legality and propriety of the findings or order.

14. Further, this Court finds no illegality, impropriety or jurisdictional error in the impugned order under challenge. Further, the order impugned indicates the proper application of mind on the facts or the pleas raised before the Court. The reasons, are clearly indicated in the impugned order, and also, it is true that it may depend upon the nature of the matter, which is being dealt with by the Court. In an order of Maintenance matters, mere ritual of repeating the words or language used in the provisions, saying that illegality, impropriety or jurisdictional error is found in the order under challenge, does not meet the requirement of decision of a case, judicially. Further, it is seen that the Trial Court has passed impugned order in an appropriate way and also, in accordance with



law. Further, the Trial Court has examined the records for the purpose of satisfying itself about legality, propriety and correctness of the order passed, in the present case.

15. On a careful scrutiny of the entire records, it is found that the Court has passed impugned order, after taking into consideration all the relevant facts and circumstances in proper manner and the quantum of Maintenance awarded by the Court, namely, Rs.2,000/- to each of the respondents herein, cannot be said to be exorbitant, which does not warrant interference in this revision case and the Revision Petition is dismissed. Thus, the point is answered, as against the revision petitioner herein.

16. *In the result*, this Criminal Revision Case is dismissed, and the Order passed in Crl.M.P.No.1681 of 2013 in M.C.No.2 of 2010, dated 27.01.2014, on the file of the learned District Munsif cum Judicial Magistrate, Natham is confirmed. Consequently, connected Miscellaneous Petition No.1 of 2014 is also closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To:

The District Munsif cum Judicial Magistrate, Natham.

+1cc to Mr.N.Ananthapadmabhan, Advocate, Sr.No.24382

pmu

JM/AN-MP/SAR-I/29.04.2016/7P-3C

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26.04.2016