



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.06.2016

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THE HONOURABLE DR.JUSTICE P.DEVADASS

Cr1.R.C. (MD) No.214 of 2014

and

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

1.Indira @ Indhu

2.Minor.Sivabairavi

... Petitioners/Petitioners

Vs.

Senthilvelan

... Respondent/Respondent

Prayer: This Criminal Revision Petitions is filed under Section 397 r/w. 401 Cr.P.C., praying to set aside the order passed in M.C.No.70 of 2010 on the file of the Family Court, Madurai against this petitioners and as well to enhance the maintenance allowance for both the petitioners herein according to the existing and sustenance price-hike and to bear the day to day expenses.

For Petitioners : Mr.G.Kandha Vadivelan

For respondent : Mr.A.K.Manickam

O R D E R

The revision petitioners wife and daughter of the respondent seeks enhancement of maintenance.

2. The revision petitioners have sought for maintenance each at the rate of Rs.3,500/- p.m. in M.C.No.70 of 2010 in the Family Court, Madurai. The maintenance case is of the year 2010. Order was pronounced on 26.11.2013.

3. The learned counsel for the revision petitioners would submit that the respondent is well off, but, the petitioners are not so. The first revision petitioner is unemployed. The second revision petitioner is studying 8th standard in a school. They are living in Madurai. Rs.2,000/-p.m each would be a token amount. With this amount it is quite unthinkable for them to have even one square meal on a month. A very low amount has been granted. In determining the quantum, the Trial court has failed to take into account several relevant aspects.



4. The learned counsel for the revision petitioners contended that the respondent is a permanent Valve operator in Madurai Corporation. He belongs to Thirupuvanam in Sivagangai District. He is a landlord. He is having agricultural income from sugarcane cultivation. In order to get the mercy of the court willingly, purposely, he suffered his deduction from his salary and shown a lesser amount merely around Rs.10,000/- as his net salary.

5. The learned counsel for the revision petitioners would submit that the property documents now filed would show that the respondent is having landed property in Thirupuvanam. Thus, he is a man of means. He has got good financial capacity, but he has no heart to pay even a reasonable amount to his wife and daughter.

6. The learned counsel for the revision petitioners further submitted that Section 125 Cr.P.C. clearly says that the maintenance order shall be either given effect from the date of petition or from the date of order. Generally, Courts will grant maintenance from the date of petition. In exceptional circumstances, it may grant from the date of order. But it must give the reasons. But, in this case, the Trial Court has not adopted either of the date. But, it has adopted its own date. Arbitrarily a date has been chosen. No reason has been given for choosing an in-between date.

7. On the other hand, the learned counsel for the respondent would submit that the respondent is very much suffering. With less salary amount, he has to meet his various burdens, including payment of maintenance to the revision petitioners. The learned Judge considering the respective case of the parties, chosen the said date. Even, this Rs.2,000/- p.m. is very difficult for him.

8. I have considered the rival submissions, perused the impugned order and also the relevant materials on record.

9. The respondent is a Madurai corporation employee. As such he gets some fringe benefits. Besides that as and when, Government declares D.A increases, there will be annual increment.

10. Thirupuvanam is an important town in Sivagangai District. It looks like a town and also a very big village. In and around Thirupuvanam, lot of cultivation activities are going on. Sugarcane plantation is a commercial crop. Documents have been produced that he is a propertied man. In all fairness, considering the financial capacity of the respondent, Rs.2,000/-p.m. each, is very low.

11. Employees suffering deductions is not an uncommon event. They suffer deductions for the benefit of the family. It is well and good. But, there is a tendency to suffer deductions by the employee husbands, when their wives files maintenance cases, they went to the Family Court or Magistrate Court for maintenance cases. Only statutory deductions such as income tax, professional tax, can be considered and other deductions are his own creations.



12. Now, considering the above aspects, we have no hesitation to hold the grant of Rs.2,000/- is a very small amount. Even, the revision petitioners have claimed only bare minimum namely, Rs.3,500/-p.m. each. After all, the revision petitioners are his wife and daughter. They are not his enemies. They cannot be eternal enemies. Human bondage can never be broken.

13. Already the respondent is a beaten man. We have not approved the decision of the Trial court in choosing an in-between date. Either it should be from the date of petition or from the date of order. Significantly now in this case, the maintenance case was filed in the year 2010 and the order was passed in the year 2013. There was a delay of three years. For this delay, both side counsel and also the Court are responsible. We have decided to enhance the maintenance not more than what they have claimed, but from when effect should be given. Giving effect from 2010 by the Trial Court will cause too much strain to the respondent. He will brick down. In such view of the matter, we will give effect from the date of the order pronounced by the Magistrate, namely 26.11.2013.

14. In view of the forgoings, it is ordered as under:

- (i) This revision is allowed.
- (ii) Consequently, connected miscellaneous petition is closed.
- (iii) The impugned order of the learned Judge, Family Court, Madurai passed in M.C.No.70 of 2010, dated 26.11.2013, is modified to the effect that the maintenance amount is enhanced to Rs.3,500/- p.m. to each revision petitioners from the date of order, namely 26.11.2013.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

PJL
To
The Judge, Family Court, Madurai.

GJM/GSV/PM/5.7.16-3P-2C

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