



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.06.2016

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

C.R.L.RC(MD)No.92 of 2014

1.Revathi @ Revathy Rengarajan
2.Uppiliappan (Minor 3 years)
Represented by his mother
and guardian the 1st Petitioner)

... Petitioners

-vs-

R.Varadarajan @ Raghu

... Respondent

PRAYER: Criminal Revision Petitions are filed, under Section 397 r/w 401 Cr.P.C., to call for the records relating to the order passed by III Additional District and Sessions Court, Tirunelveli in CrI.R.C.No.23 of 2013, dated 29.10.2013 modifying the order passed by the learned Principal District Munsif cum Judicial Magistrate, Nanguneri in M.C.No.11 of 2011, dated 15.02.2013 and consequently, direct the respondent to pay a sum of Rs.10,000/-, as maintenance for the petitioners.

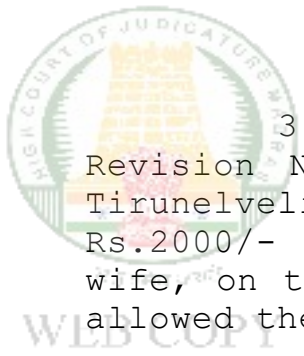
For Petitioners : Mr.K.P.Narayanakumar

For Respondent : Mr.S.Siva Thalakar

ORDER

The wife and son of the respondent challenges the impugned order passed by the learned III Additional Sessions Judge, Tirunelveli in CrI R.C.No.23 of 2013.

2. The first revision petitioner married the respondent. They were blessed with a son (second revision petitioner). Misunderstanding arose between the couples. Now, they are living separately. The son is with his mother. They have claimed maintenance in M.C.No.11 of 2011 before the learned Judicial Magistrate, Nanguneri, Tirunelveli District. They were given Rs.2000/- each per month (totally Rs.4000/- per month).



3. As against this, the respondent/husband filed Criminal Revision No.23 of 2013. The learned Additional Sessions Judge, Tirunelveli, on a strange reasoning set aside the maintenance of Rs.2000/- per month, ordered to the first revision petitioner / wife, on the ground that she is not mentally matured. So, partly allowed the revision.

4. According to the learned counsel for the revision petitioners, the respondent is earning much, as a Prohit. Not granting maintenance to the wife on the ground that she is mentally not matured is not correct. What was granted to the second revision petitioner, who is studying and his educational expenses is more is very less.

5. On the other hand, the learned counsel for the respondent submitted that based on the evidence on record, rightly the revisional court / District Judge dismissed the maintenance granted in favour of the first revision petitioner. There is no steady income for the respondent. Now-a-days, the Prohits are not more wanted. So, they get only less income.

6. I have anxiously considered the rival submissions and perused the impugned order and also the materials on record.

7. Simply because the wife is not hale and healthy, an husband cannot refuse to maintain her. Simply because, she is mentally not all right, he cannot refuse to maintain her. Simply because she is mentally not matured, an husband cannot refuse her maintenance. Simply on such ground, the wife cannot desert her husband.

8. Legally, as long as the marriage tie between the spouse is in force, the husband is bound to maintain his wife, whether she is mentally all right or not. Particularly, when the wife is in distress, it is the pious duty of the husband to go to her help. It is very sad that on this account, the learned III Additional Sessions Judge, Tirunelveli, has set aside the maintenance granted to the first revision petitioner / wife.

9. The Magistrate granted them Rs.2000/- per month each. The wife is unemployed. She is living in Nanguneri, Tirunelveli District, along with her son. The son is studying. Respondent is now residing in Chennai.

10. Respondent is a Prohit. Of course, he is not regularly employed like a Government servant. But, now, their hands are also full. Now, they become most wanted persons. Usually, a Prohit is given Thatchana. Sky is their limit. They charge the amount to the dependents upon the family. Besides the money, they also take Thatchana articles such as rice, vegetables etc., The respondent should provide reasonable maintenance to the revision



petitioners.

11. In view of the forgoings, ordered as under:-

i. This Revision is allowed

ii. The order of the learned III Additional Sessions Judge, Tirunelveli, passed in Criminal Revision No.23 of 2013 setting aside the maintenance granted to the first revision petitioner, is set aside.

iii) The order of the learned Judicial Magistrate, Nanguneri, passed in M.C.No.11 of 2011 is modified to the effect that the respondent shall pay Rs.3000/- per month to each petitioner.

iv) The enhanced portion of the maintenance amount shall take effect with effect from the date of filing of this revision viz., 03.01.2014.

Sd/
Assistant Registrar(AE)

/True copy/

Sub Assistant Registrar

To

1.The III Additional Sessions Judge,
Tirunelveli

2.The District Munsif cum Judicial Magistrate,
Nanguneri, Tirunelveli District.

+1cc to Mr.S.Siva Thilakar, Advocate in SR.No.32709

+1cc to Mr.K.P.Narayanakumar, Advocate in SR.No.32366

SDR/KBM/01.07.2016/3P/5C

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