



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.06.2016

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

C.R.L.RC(MD) No.161 of 2015

and

M.P. (MD) No.1 of 2015

T.Sakthivel

... Revision Petitioner/
Respondent

-vs-

1.S.Revathi

2.S.Elakiamathi

3.S.Elavarasan

... Revision Respondents/
Complainant

PRAYER: Criminal Revision Petition is filed, under Section 397 r/w 401 Cr.P.C., to admit the revision, to call for the records from the lower Court and to duly set aside the order passed in M.C.No.91 of 2012, dated 04.03.2015 on the file of learned Chief Judicial Magistrate, Tiruchirappalli, Trichy District.

For Petitioner : Mr.J.Senthil Kumar

For Respondents : Mr.S.Ayyanar Prem Kumar
(Legal Aid Counsel)

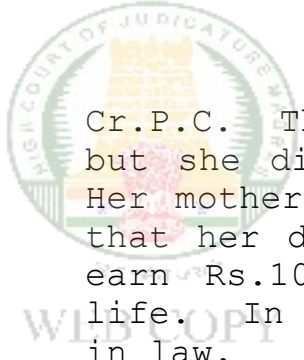
O R D E R

In this revision an husband challenges grant of maintenance to his wife and children.

2.The first respondent was happy that a fortune teller has become her husband. Latter, according to her, she had discovered that a trouble maker has become her husband. They got separated. She claimed maintenance for herself and for her children in M.C.No.91 of 2012. The learned Chief Judicial Magistrate, Tiruchirapalli, considering the evidence adduced by both sides ordered monthly maintenance at the rate of Rs.2000/- per month to each of the petitioners, totalling to Rs.6000/- per month.

3. Dissatisfied with the said order, the husband had filed this revision.

4. According to the learned counsel for the revision petitioner, when the wife unreasonably withdrawn her society she will be disqualified from claiming maintenance under Section 125



Cr.P.C. The revision petitioner had set up a separate residence, but she did not leave there. She has voluntarily deserted him. Her mother / P.W.2 is selling tender coconuts. She had admitted that her daughter / P.W.1 used to do tender coconut business and earn Rs.1000/- per day. The revision petitioner struggles in life. In such circumstances, the impugned order is unsustainable in law.

5. On the other hand, the learned counsel for the respondent submitted that unable to bear the torture of the revision petitioner, the respondent has to live apart. The revision petitioner is a professional Astrologer. He earns very well. He is also having landed properties. He is a propertied man. He has much means.

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

7. Children are not fighting with the parents. They are neutral. In a petition under Section 125 Cr.P.C., the Court has to consider the financial capacity of the husband and financial aspects of the wife and whether she has unreasonably withdrawn her society from her husband.

8. The respondent had alleged that her husband developed undesirable conduct with one Ilangiam. She had stated this in her petition and also reiterated in her evidence. Further she also stated that her husband is a drunkard. A complaint was also lodged by her. He was very much tutored his kept woman. When the roof provided becomes hell it is quite natural that no woman will live under it. Under these situation, it is quite understandable that the respondents are not living with the revision petitioner.

9. P.W.2, mother of 1st respondent admits that in her selling coconut her daughter used to assist her. It is pertinent to note that the respondents have no help in their hour of crisis, except P.W.2. When her mother sells tender-coconut, 1st respondent cannot remain idle. Such coconut sellers are not millionaires. It is also a seasonal business.

10. Practically a woman in distress has the helps of others, as in the present case P.W.1 has the help of P.W.2. P.W.1 cannot afford to remain idle when her mother is selling tender coconuts. P.W.1 cannot be an heartless woman. Further, to claim maintenance from her husband a wife will not allow cat on sleep in her kitchen.

11. Revision petitioner is an Astrologer. For them sky is the limit. They do more money. Whatever they demand become their fees. There is no fee regulations for them. There is evidence he has land and income from land.



12. Considering all the above aspects, Rs.2000/- per month to each respondent itself is bare minimum to cover their expenses relating to roof, food, cloth and other necessities of life.

13. In view of the foregoings, this revision fails and it is dismissed. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar (Crl.side)

/True copy/

Sub Assistant Registrar

To

1. The Chief Judicial Magistrate,
Tiruchirappalli, Trichy District.

2. Mr. S. Ayyanar Prem Kumar
(Legal Aid Counsel)

3. The Registrar (Judicial)
Madurai Bench of Madras High Court,
Madurai
(For arrange payment of fee to the nominated counsel
Mr. S. Ayyanar Prem Kumar)

+1cc to Mr. J. Senthil Kumar, Advocate SR.No.30737

+1cc to Mr. S. Ayyanar Prem Kumar, Advocate SR.No.30757

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