



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.08.2016

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

Cr1.RC(MD) No.390 of 2015

Sathiyakala @ Jenani

... Petitioner / Petitioner

-VS-

M.Prasath

... Respondent / Respondent

PRAYER: Criminal Revision Petition is filed, under Section 397 r/w 401 Cr.P.C., to call for the records in M.C.No.159 of 2014, on the file of the Family Court, Tiruchirappalli, dated 18.03.2015, and set aside the same and enhancing the monthly maintenance to the petitioner by allowing the criminal revision petition.

For Petitioner: Mr.P.Sivachandran

For Respondent: Mr.A.Hariharan

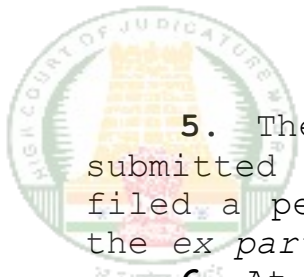
O R D E R

Asking more than the amount ordered in M.C.No.159 of 2014, wife of the respondent has directed this revision.

2. The respondent / husband and the revision petitioner / wife are at their loggerheads. They are living separately. In M.C.No.159 of 2014, the Family Court, Trichy, granted her Rs.5,000/- per month towards maintenance from the date of the petition. Seeking enhancement of the maintenance amount, she has directed this revision.

3. The learned counsel for the respondent / husband took up the stand that in the maintenance case no notice has been served upon him. He came to know about the maintenance order only when the notice was served upon him in this revision. In the circumstances, a report has been called for from the learned Judge, Family Court, Trichy. The learned Judge, in his report, confirmed that the maintenance order was passed *ex parte* and it is stated that notice was refused by the respondent.

4. The learned counsel for the respondent / husband further submitted that no notice at all was sent to the respondent. He seeks an opportunity to meet his wife's case on merits.



5. The learned counsel for the revision petitioner / wife submitted that even then the respondent / husband ought to have filed a petition, before the Family Court, Trichy, to set aside the *ex parte* order. He did not do so.

6. At this juncture, the learned counsel for the respondent / husband submitted that the petitioner is intending to do so.

7. I have anxiously considered their rival submissions, perused the impugned order and the materials on record.

8. This matter arose out of a maintenance order passed under Section 125 Cr.P.C. The order was passed *ex parte*. If the respondent filed petition to set aside the *ex parte* order and the learned Judge disposed of the maintenance case on merits, thereafter as usual either one of them will file revision. The net result will be taking a toll of public time as well as their own precious time. Let us have some short circuit method. Let the respondent / husband have an opportunity. And, he shall also have the opportunity to assist her financially during the pendency of the maintenance case. Thereafter, it is their fate based on the Judgment of the Family Court.

9. In the circumstances, ordered as under:

- (i) The impugned order, dated 18.03.2014, passed in M.C.No.159 of 2014, by the learned Judge, Family Court, Trichy, is set aside.
- (ii) M.C.No.159 of 2014 shall be restored to file.
- (iii) The learned Judge, Family Court, Trichy, will receive the counter of the respondent / husband.
- (iv) After giving reasonable opportunity to both sides, the learned Judge shall dispose of the maintenance case expeditiously.
- (v) Till the disposal of the maintenance case, the respondent / husband shall pay Rs.5,000/- (Rupees five thousand only) per month to the revision petitioner / wife on or before the 5th of every English Calendar month.
- (vi) However, in case the learned Judge, Family Court, Trichy, orders maintenance to her, the said amount shall be adjusted as against the maintenance amount.
- (vii) Accordingly, this criminal revision is disposed of.

Sd/
Assistant Registrar (W)

/True Copy/



To:
The Judge,
Family Court,
Tiruchirappalli.

WEB COPY

+1 cc to MR.P.SIVACHANDRAN, Advocate Sr.No.43122

+1 cc to MR.A.HARIHARAN, Advocate Sr.No.42848

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