

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 14.06.2016****CORAM:**

THE HONOURABLE Dr.JUSTICE P.DEVADASS
Cr1.R.C.(MD)No.394 of 2015
and
M.P.(MD)No.1 of 2015

Syed Ibrahim

... Petitioner/Respondent

Vs.

Rehmathunnissa

... Respondent/Petitioner

Prayer: Criminal Revision Petition is filed under Section 397(1) r/w 401 Cr.P.C., against the order dated 10.07.2015 passed in M.C.No.277 of 2014 on the file of the Family Court, Tiruchirappalli, Tiruchirappalli District, directing the petitioner to pay a sum of Rs.8,000/- per month as maintenance to the respondent from the date of petition.

For Petitioner : Mr.M.Sathiyamoorthy
For Respondent : Mr.N.R.Murugesan

ORDER

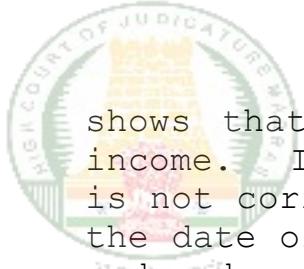
The revision petitioner challenges grant of monthly maintenance of Rs.8,000/- to the respondent under Section 125(1) Cr.P.C.

2.The revision petitioner became the husband of the respondent. They were blessed with a daughter and a son, but not blessed with a happy married life. The love between the spouses did not long last. They have become estranged couples.

3.Alleging various charges as against her husband, she sought for maintenance in M.C.No.277 of 2014. The learned Judge, Family Court, Tiruchirappalli, referring to the evidence of both sides and other materials on record granted her Rs.8,000/- per month from the date of filing of the M.C. Case.

4.Aggrieved, the revision petitioner has directed this revision.

5.According to the learned counsel for the revision petitioner, respondent has voluntarily deserted the revision petitioner, so she is not eligible for maintenance. Evidence



shows that he gets only Rs.12,000/- per month by way of rental income. In such circumstance, granting her Rs.8,000/- per month is not correct. Further, no reason has been stated as to why from the date of petition instead of date of order maintenance has been ordered. Normally, maintenance is to be ordered from the date of order. But exceptionally, it can be ordered from the date of filing of the petition. For making such exemption, the Trial Court has to give specific reasons. But in this case, no such reason has been given. In this connection, the learned counsel for the revision petitioner cited **Dharmendra Kumar Gupta Vs. Chandra Prabha Devi (1990 Legal Legal Eagle (ALD) 162)**.

6. On the other hand, the learned counsel for the respondent submits that the revision petitioner did not have sterling quality and character. He eyed on another man's wife. She is Rahila. He was very much carried away her. In such circumstances, living with such a person under the same roof is not possible and feasible. Further revision petitioner mentioned about his pronouncing of Talak. Without admitting its legality, it would be incongruous to live with such a person. Besides rental income, he also earns through iron scrap business. He has much financial capacity.

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

8. Having gone through the materials on record, I am satisfied that the situation is such that the respondent cannot live with the revision petitioner.

9. The revision petitioner has immovable property. He receives income from house property. Evidence shows that he is doing iron scrap business. He also earns from such business. So he is a propertied businessman. He has financial capacity.

10. The respondent is living in Trichy. To meet her expenses minimum she need Rs.8,000/- per month. At any rate, with this amount she cannot lead a lavish life. But with this amount with great difficulty she has to meet the necessities of her life.

11. When we look at this case, the revision petitioner and the respondent were fighting for a long time. The revision petitioner had stated that he was paying some amount regularly to the respondent and her children. Though it is little he was paying it. But he stopped it after August, 2012. She has filed the M.C. case in January, 2013. The maintenance order was passed by the learned Family Court Judge in July, 2015 with effect from the date of petition.

12. In the circumstances, we uphold the maintenance order, directing the revision petitioner to pay maintenance to the respondent from the date of filing of the M.C. case.



13. In view of the foregoing, this revision fails and it is dismissed. Consequently, connected M.P. is closed.

WEB COPY

Sd/-
Assistant Registrar (CS-I)

/TRUE COPY/

Sub Assistant Registrar

Copy to

1. The Registrar (Judicial), Madurai Bench of Madras High Court,
Madurai.

(Registrar (Judicial) is directed to take steps for paying fees as per Legal Aid Rules to the nominated counsel M. Sathiamoorthy).

2. The Judge, Family Court, Tiruchirappalli, Tiruchirappalli Dt.

Nbj

JA-NGM-MP-28.6.2016/3P:3C

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