



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.07.2016

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

Crl.R.C.(MD) No.488 of 2015

and Crl.M.P.(MD) No.5341 of 2016

1.C.Umarani

2.Minor S.Shreenithi

(Minor Rep.by mother and
guardian C.Umarani)

..Petitioners/Petitioners

-vs-

R.Sivakumar

..Respondent/Respondent

PRAYER: Criminal Revision Petition is filed, under Section 397 r/w 401 Cr.P.C., to call for the records and set aside the order dated 06.07.2015 made in M.C.No.84 of 2014 on the file of the Family Court, Madurai.

For Petitioner: Mr.T.R.Jeyapalam

For Respondent: Mr.V.O.M.Prakash

O R D E R

The wife and daughter of respondent, seeking enhancement of maintenance in M.C.No.84 of 2014 on the file of Family Court, Madurai, have directed this revision.

2.The impugned order under Section 125 Cr.P.C. has been passed by the learned Judge, Family Court, Madurai in M.C.No.84 of 2014 on 06.07.2015, granting Rs.5,000/- each to the first petitioner and second petitioner as against their claim of Rs.50,000/- per month. The respondent/husband remained exparte.

3.The grievance of the petitioners is that by salary certificate, the respondent is earning nearly Rs.2,00,000/- per month. However, this has been contradicted by the learned counsel for the respondent by submitting that his net salary is very less.

4.Now, it is a matter of fixation of quantum of maintenance. For this purpose salary certificate and connected document is very important. In this connection a petition to receive additional evidence has already been filed by the revision petitioner.

5.The learned counsel for the respondent submitted that in the Trial Court he need an opportunity to face the case on merit.

6.We can give him an opportunity, but he must pay the maintenance as ordered by the trial Court. There is huge arrears. The respondent seeks breathing time to pay the huge arrears in some reasonable instalments.

7.In the circumstances, ordered as under:

<https://hcservices.ecourts.gov.in/hcservices/>
This revision is allowed.



(2) The impugned order dated 06.07.2015 passed by the learned Judge, Family Court, Madurai in M.C.No.84 of 2014 is set aside.

(3) M.C.No.84 of 2014 is remanded to the trial Court/Family Court, Madurai for fresh disposal.

(4) The learned Judge will give reasonable opportunity for both sides to adduce further oral and documentary evidence, hear both sides and pass orders according to law.

(5) With effect from 01.08.2016, the respondent shall regularly pay Rs.5,000/- + Rs.5,000/- = Rs.10,000/- to the 1st revision petitioner directly remitting the amount in her bank account. She shall furnish her bank account number to the respondent without delay.

(6) Arrears amount up to 30.07.2016 shall be paid in two instalments. Towards 1st instalment Rs.1,00,000/- shall be deposited to the credit of M.C.No.84 of 2014 on the file of the Family Court, Madurai on or before 19.07.2016. The balance past arrears of Rs.1,35,000/- shall be deposited before the said Court within one month from today.

(7) As and when the arrear amount is deposited, the learned Judge, Family Court, Madurai, will disburse the amount to the 1st revision petitioner, who will spend the amount for herself and her daughter.

(8) After the final judgment in M.C.No.84 of 2014, in the event of granting maintenance, the amount so far paid in M.C.No.84 of 2014 shall be adjusted towards the maintenance amount to be fixed in the retrial.

(9) The Judge, Family Court, Madurai, shall dispose of M.C.No.84 of 2014 within 3 months from the date of receipt of a copy of this order.

(10) The Registry is directed to return the original document filed in CrI.M.P.(MD) No.5341 of 2016 to the revision petitioners.

Consequently, connected CrI.M.P.(MD) No.5341 of 2016 is closed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar(CS)

To:

The Judge, Family Court, Madurai.

Copy to : The Section Officer, Criminal Section,
Madurai Bench of Madras High Court, Madurai.

+1cc to M/s.T.R.Jeyapalam, Advocate in SR.36431

+1cc to M/s.V.Om Prakash, Advocate in SR.36666

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