



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:09.06.2016

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

C.R.L.RC(MD) No.576 of 2015

and

M.P(MD)No.1 of 2015

Vignesh Kumar

... Petitioner/Respondent

-vs-

1.Indira

2.Minor.Janani

... Respondents / Petitioners

PRAYER: Criminal Revision Petition is filed, under Section 397 r/w 401 Cr.P.C., against the order made in M.C.No.62 of 2014 by the Judicial Magistrate, Aruppukottai, dated 31.08.2015.

For Petitioner : Mrs.J.Padmavathidevi

For Respondents : Mr.V.Sasikumar

ORDER

An husband, who was upset by the order of the learned Judicial Magistrate, Aruppukottai in directing him to pay Rs.1,000/- per month to his wife/first respondent and Rs.2,500/- per month to the second respondent/daughter, totalling Rs.3,500/- per month, has directed this revision.

2. The spouses are now living separately. Their daughter, who is three years old, is now with first respondent. They have sought for maintenance.

3. The trial Court noticing the financial position of the revision petitioner, granted them monthly maintenance at the rate of Rs.1,000/- to the wife and Rs.2,500/- to the second respondent.

4. The learned counsel for the revision petitioner would submit that the petitioner is jobless. He is selling towels in Coutralam. He is also assisting his father. He gets only a meagre income. It is also a seasonal business. He finds it very difficult to pay the maintenance ordered by the trial Court. There are some matrimonial proceedings pending between both sides. In such circumstances, the maintenance ordered is not in accordance with law.

5. On the other hand, the learned counsel for the respondents submits that what was granted by the learned Magistrate itself is very minimal. The revision petitioner is earning. He belongs to a good family. His mother is a pensioner. His father supports him in



selling towels. He cannot be heard to say that he cannot pay not even the minimum maintenance. The first respondent is battling to take care of her ailing child/second respondent.

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

7. In spite of having 'means' to maintain, if the husband fails to maintain his wife and children, then he will be directed to pay them maintenance. Nowhere in the Code of Criminal Procedure the word 'means' has been made to mean what.

8. Generally 'means' understood to mean 'money' or other financial aspects. Sometimes it is understood as 'source of income'. Husbands started saying that they are jobless and does no work, remains idle. They thought that by saying so they can escape from their liability to pay maintenance. But, the Courts tackled this type of mean mentality of men from a different angle. The word 'means' has been interpreted to mean 'ability to earn'. One may have 'ability to earn', but may not have the interest or willingness to work or earn. They wish to be lazy. It is said that there is no wrong in an husband even to beg to feed his wife, children and parents. The 'Physical ability to earn' itself is considered as 'means' on the part of the dodging husbands.

9. Now in the present case, the petitioner has ability to earn. He does work. He does business. He has physical ability to earn. He has means to maintain his wife and child. In the circumstances, we are not to upset the minimum maintenance ordered by the trial Court.

10. Thus, this Criminal Revision fails and it is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To:

1 The Judicial Magistrate, Aruppukottai.

2 Do thro' The Chief Judicial Magistrate, Virudhunagar at Srivilliputhur

+1cc to M/s.V.Sasikumar, Advocate Sr.No.29317

+1cc to M/s.J.Padmavathi, Advocate Sr.No.29528

pm

AA/KBM/21.06.2016/2p-5c