



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.06.2016

CORAM

THE HONOURABLE DR.JUSTICE P.DEVADASS

CrI.R.C.(MD)No.593 of 2015

and

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

Ramkumar

... Petitioner

Vs.

1.Radha

2.Minor. Janani

(Minor represented by her mother
and Natural Guardian Radha)

... Respondents

Prayer: This Criminal Revision Petitions is filed under Section 397 r/w. 401 Cr.P.C., praying to call for the records and to set aside the order dated 30.10.2015 made in M.C.No.90 of 2014 passed by the learned Chief Judicial Magistrate, Trichy District.

For Petitioner : Mr.T.Lenin Kumar

For respondent : Mr.A.Thiruvadikumar

O R D E R

The revision petitioner/husband challenges the monthly maintenance of Rs.10,000/- ordered by the learned Chief Judicial Magistrate, Trichy in M.C.No.90 2014.

2. The husband and wife are at their logger heads, but not their daughter. The wife/respondent sought for maintenance in M.C.No.90 2014, alleging that his husband/driver refused to maintain her, in spite of having means to do so. The learned Chief Judicial Magistrate, Tiruchirappalli, adjudicated the matter, analysed the evidence adduced before him, ultimately ordered Rs.10,000/-p.m.

3. It is the contention of the learned counsel for the petitioner that the respondent/wife is a tailor, earns as such, she has means to maintain herself. Further he has no own car, he works as a driver. He has no means. He is bound to maintain his wife. But Rs.10,000/- is much more. Therefore in the facts and circumstances, considering his present precarious situation, the amount ordered may be sliced down.

3. On the other hand, the learned counsel for the respondent/wife would submit that the revision petitioner has not
<https://hcservices.courtsofmadras.gov.in/hcservices> reality of the situation. Even as per his plea and evidence, he has owned a car and let it to a call taxi and run in the name of his mother.



4. I have considered the rival submissions, the impugned order and also the relevant materials on record.

5. So far as the phrase 'means' for the purpose of Section 125 Cr.P.C. means actual earning of money alone. It has been interpreted to mean one's ability to earn. Because one may have good physic, but in order to escape, he may say, he is not earning.

6. Now in this case, according to him, his car has gone. But he could not say he is not a driver. In fixing quantum, the courts can take common knowledge and practical aspects of life.

7. Now in this case, wife has stated to be a tailor. Even if she is so, there is no wrong in it. She has to live. In order to claim maintenance from the husband, she cannot be expected keep her kitchen without boiling. Of course if she earns very well, it may be taken into account in fixing the quantum.

8. Now, the revision petitioner is a driver. Drivers are also earns well. The car, he is stated to have been owned has been contradicted. However our attention has been drawn to the evidence in the record that the disappearance of the car has not been established by any acceptable evidence.

9. Under the circumstances, recording a finding that the respondent/wife earn as a tailor has not been established, taken into account revision petitioner's earning as a driver and fixed Rs.10,000/- as a monthly maintenance.

10. The revision petitioner is not an old man, he is running 35 years. He has got good physic to earn and now-a-days this Rs.10,000/- p.m. towards food, shelter, bare necessities of life could not be stated excessive.

11. In view of the foregoing this Civil Revision fails and it is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AE)

/True copy/

Sub Assistant Registrar

To

The Chief Judicial Magistrate, Trichy.

+1cc to M/s.T.Lenin Kumar, Advocate SR.No.29244