



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.06.2016

CORAM:

WEB COPY

THE HONOURABLE DR.JUSTICE P.DEVADASS

C.R.L.RC(MD) No.146 of 2016

and

CrI.M.P.(MD) No.2206 of 2016

S.Murugan

... Petitioner / Respondent /
Respondent

-vs-

Tamilarasi

... Respondent / Petitioner /
Petitioner

PRAYER: Criminal Revision Petition is filed, under Section 397 r/w 401 Cr.P.C., to call for records relating to order passed by learned Family Court, Madurai, in Cr.M.P.No.61 of 2015 in Cr.M.P.No.114 of 2009 in M.C.No.28 of 1991, dated 29.10.2015 and set aside the same.

For Petitioner: Mr.S.M.Mohan Gandhi

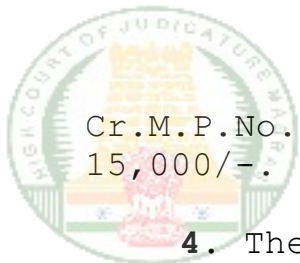
For Respondent: Mr.A.Hariharan

O R D E R

The husband of the respondent, aggrieved by the enhancement of monthly maintenance to Rs.10,000/- per month has directed this revision.

2. The revision petitioner and the respondent were blessed with two sons. The sons are well educated. The elder son is gainfully employed. The second son is struggling to have a good carrier in life. They are not party to the age-old fight between their parents.

3. The revision petitioner is a Central Government servant. He is employed in C.R.P.F. As between the spouses there is a long back history. Long back she was granted Rs.1,000/- as monthly maintenance in M.C.No.28 of 1991. Thereafter, she sought for enhancement of the amount from Rs.1,000/- to Rs.5,000/- by filing Cr.M.P.No.114 of 2009, under Section 127 Cr.P.C. Again she filed



Cr.M.P.No.61 of 2015 seeking enhancement from Rs.5,000/- to 15,000/-.

4. The learned Judge, Family Court, Madurai by his Order dated 29.10.2015, enhanced the monthly maintenance to Rs.10,000/- from the date of said petition.

5. According to the learned counsel for the petitioner, the respondent is receiving rental income from four houses. She is also employed in a private concern and receives Rs.15,000/- per month. Her elder son receives Rs.5 ½ Lakhs per annum. The revision petitioner is shortly going to retire from service. In such circumstances, 10,000/- per month is excessive. By way of interim measure, this Court directed him to pay Rs.4,000/- per month. He could able to pay the said amount with great difficulty. This amount would be within his financial capacity.

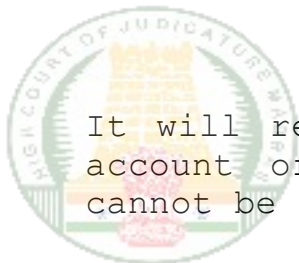
6. On the other hand, the learned counsel for the respondent submitted that none of the grounds raised is backed by any evidence. The order of the Family Court does not suffer from any legality. In such circumstances, interference is not called for. In this connection, the learned counsel for the respondent cited **Bhuwan Mohan Singh v. Meena [2014 (5) CTC 528]**.

7. The learned counsel for the respondent also submitted that ofcourse the revision petitioner is going to retire from service shortly. But, that cannot be a ground to reduce the amount. Because, he is going to get a lump sum amount. As the 7th Pay Commission is going to be implemented very soon, he is going to get more lump sum amount and more pension. When similar arguments were made to reduce the maintenance amount, in **Shamima Farooqui v. Shahid Khan [(2015) 2 MLJ (Cr1) 237]** the Hon'ble Supreme Court refused to reduce the maintenance amount.

8. I have anxiously considered the rival submissions, perused the impugned order, materials on record and the decisions cited.

9. There is no evidence to substantiate that the respondent is receiving rental income and Rs.15,000/- by being employed in a private Company. Her son may earn well. But, the revision petitioner cannot dictate his wife to go and get maintenance from her son.

10. Taking into account his latest salary, Rs.10,000/- per month has been fixed. Even when a Central Government servant superannuates, he will not be simply sent out. He will be paid a lump sum amount consisting of gratuity, arrears of leave salary, P.F. accumulation, ex gratia amount and pensionary benefits. Further, under the 7th Pay Commission, the gratuity amount is going to be increased and salary also is going to be increased.



It will reflect in his pension also. In such circumstances, on account of fast approaching retirement, the maintenance amount cannot be reduced.

11. The another aspect is in the impugned order is that the learned Judge has mentioned the date from which the enhanced amount has to be paid as 'from the date of this petition'. But, it has not been clearly stated. Ofcourse, the original petition was filed long back. Amendment application was filed in 2015. The salary certificate taken into account is for 2015. Therefore, it should be from the date of the amendment application, namely, 16.03.2015 and not before that.

12. In the circumstances, this revision fails and it is dismissed. It is made clear that the enhancement amount of Rs.10,000/- per month shall be with effect from the date of amendment application, namely, 16.03.2015. Any amount paid in excess of that shall be adjusted towards arrears. Consequently, connected criminal miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

/True Copy/

Sub Assistant Registrar

krk

To:

The Judge, Family Court, Madurai.

+1CC to Mr.S.M.Mohan Gandhi, Advocate Sr.No.34059

+1CC to MrA.Hariharan, Advocate Sr.No.33555

GJM/AAL/MPA/6.7.16-3p-4c

**C.R.L.RC(MD) No.146 of 2016
and**

**CrI.M.P.(MD) No.2206 of 2016
28.06.2016**