

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 31.08.2016****CORAM:****THE HONOURABLE DR.JUSTICE P.DEVADASS****CrI. R.C. (MD) No.578 of 2016****CrI.M.P. (MD) No.7383 of 2016**

R.Krishnasamy

... Revision Petitioner/Respondent

-vs-

1.K.Dhanalakshmi

2.Minor Madhavan

... Respondent/Petitioner

Rep.by his Natural Guardian

Dhanalakshmi

PRAYER: Criminal Revision Petition is filed, under Section 397 r/w 401 Cr.P.C., to call for the records pertaining to the impugned order passed by the learned Family Court, Madurai in M.C.No.19 of 2015 dated 06.04.2016 and set aside the same.

For Petitioner : Mr.R.Manickaraj
for M/s.Veera Associates

For Respondents : Mr.T.Joseph Jeyakumar
for Mr.D.Arul Joseph

ORDER

A husband dissatisfied with the quantum of maintenance granted to his wife and son in M.C.No.19 of 2015, on the file of the Family Court, Madurai has directed this revision.

2.It is not in dispute that the marital bondage between the revision petitioner and the first respondent, which came into existence on 16.05.2010 continues even now. The couples were blessed with one son, he is second respondent. Due to matrimonial dispute, now the spouses are living separately.

3.In the circumstances, the first respondent, in M.C.No.19 of 2015 sought for maintenance to herself and her son. The learned Judge, Family Court, Madurai considering the evidence and the financial capacity of both sides directed him to pay Rs.4,000/- to the wife and Rs.2,000/- to their son, totally Rs.6,000/- per month from the date of petition. This is not to the liking of the revision petitioner. That is how, he came to this Court.



4.The learned counsel for the petitioner submitted that the revision petitioner is a poor man. After all the deductions he gets Rs.9,000/- and odd per month. With this amount it is difficult for him to make both the ends to meet. In such circumstances, this much amount of maintenance is too much for him.

5.On the other hand, the learned counsel for the respondents would submit that actually the revision petitioner sheds crocodile tears. The learned counsel for the respondents submitted that the respondents have no independent source of income. Their only source is the revision petitioner. She has also filed H.M.O.P.No.753 of 2014, wherein she has mentioned very many matrimonial violence committed by her husband and he had also eyed on another man's wife.

6.The learned counsel for the respondents further submitted that the revision petitioner is a permanent Government servant. Regularly his salary is being increased. What was granted by the Family Court itself is very less. Even that amount, he wants to avoid. That is the motive behind his revision.

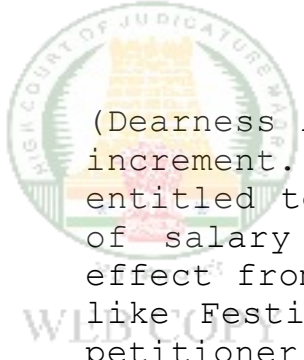
7.I have anxiously considered the rival submissions, perused the impugned order and also the materials on record.

8.There is no out right denial by the revision petitioner to give maintenance to his wife and son. In fact, he cannot do so because it is moral and legal duty to maintain them. Now, the question involved is quantum of maintenance.

9.Earlier before 2001, there was a cap of Rs.500/- to be awarded as maintenance under Section 125 Cr.P.C. In 2001, by way of an amendment this cap has been removed. Now, the Magistrate/Judge, Family Court can award maintenance at such monthly rate as it deem fit. But that does not mean that they can award an astronomical amount. The Court must take into account the financial capacity of both sides.

10.The first respondent is unemployed and the second respondent is only a child. Of course, the first respondent/wife's parents are stated to be employed in Railway Department. Ethically, legally and morally once a daughter is given in marriage to a person, the husband cannot say to his wife to go and get food from her father. A father helping his daughter will not absolve the husband from paying maintenance to his wife.

11.The revision petitioner is an Office Assistant in the State Service Section, Government Department. His gross salary is more than Rs.15,000/- per month. His net pay is more than Rs.9,000/- per month. Government servants like him get two times increase in D.A.



(Dearness Allowance) in a year. Further, annually he will get one increment. Further, he will also get ex-gratia bonus. He is also entitled to encash 15 days of earned leave. He is to get increase of salary and arrears based on 7th Pay Commission Report with effect from 01.01.2016. Besides that, he will get certain advances like Festival Advance. Thus it cannot be said that the revision petitioner is not a man of means. He has sufficient financial capacity to maintain his family.

12. In these days of high inflation, for a woman and her son Rs.6,000/- per month will be practically hand to mouth. In the facts and circumstances, taking into account all the relevant aspects, the trial Court has fixed the quantum of maintenance. It does not suffer from any legality, propriety or regularity.

13. In the result, this revision fails and it is dismissed. Consequently, connected Miscellaneous Petition is also dismissed.

Sd/-
Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

sj
To:

The Judge, Family Court,
Madurai.

+1CC Mr.T.Joseph Jeyakumar, Advocate Sr.No.49025

GJM/GSV/PM/12.9.16-3p-3c

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