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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.08.2016

CORAM:

THE HONOURABLE Dr.JUSTICE P.DEVADASS

Crl.R.C. (MD) Nos.89 and 432 of 2016

and

Crl.M.P. (MD) No.1507 of 2016

Crl.R.C. (MD) No.89 of 2016:

Alagu Karuppu

... Petitioner

Vs.

1.Minor Judi Akslin

2.Minor Jemals Anto

... Respondents

(Minors to the next friend of
the respondents and grandfather
of the minors Mr.Antony Selvaraj
guardian of the minors)

Prayer: Criminal Revision Petition is filed under Sections 397 and 401 Cr.P.C., to call for the documents pertaining to the order dated 22.12.2015 passed in M.C.No.19 of 2013 by the learned Judicial Magistrate, Ambasamuthiram Taluk, Tirunelveli District.

For Petitioner : Mr.M.Vivekanandan

For Respondents : Mr.T.R.Jayapalam

Crl.R.C. (MD) No.432 of 2016:

1.Minor Judi Akslin

2.Minor Jemals Anto

... Petitioners

(Minors represented by their guardian
and maternal grand father Mr.Antony Selvaraj)

Vs.

Alagu Karuppu

... Respondent

Prayer: Criminal Revision Petition is filed under Sections 397 and 401 Cr.P.C., to call for the documents pertaining to the order dated 22.12.2015 passed in M.C.No.19 of 2013 by the learned Judicial Magistrate, Ambasamuthiram Taluk, Tirunelveli District.

For Petitioners : Mr.T.R.Jayapalam

For Respondent : Mr.M.Jegadeesh Pandin

**COMMON ORDER**

Both these Criminal Revision petitions have been directed as against the order of the learned Judicial Magistrate, Ambasamuthiram, Tirunelveli District. As they are connected on factual matrix they were heard together and are being disposed of by this common order.

2.Crl.R.C.(MD)No.432 of 2016 has been filed by the minor children as against their father, seeking enhanced maintenance. M.Jagadeesh Pandian learned counsel is appearing on behalf of the respondent, namely, Alagu Karuppu.

3.Alagu Karuppu, an Hindu, fell in love with Mercy Rosline, an Indian Christian. There was love marriage between them. They were blessed with two daughters, namely, Judi Akslin and Jemals Anto. Mercy Rosline was afflicted with a terminal illness. She breathed her last. Her daughters become motherless. Alagu Karuppu, a graduate teacher in a Government School. Now Judi Akslin is studying +1 course in a private school. While Jemals Anto is studying V standard in a Government School. Both are 16 and 9 years old respectively. Now they are under the care and custody of their grand parents.

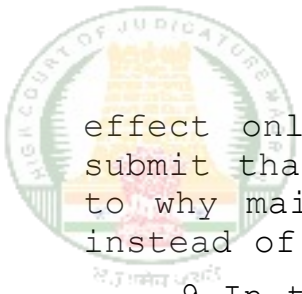
4.The children have sought for maintenance from their father in M.C.No.19 of 2013 before the learned Judicial Magistrate, Ambasamuthiram, Tirunelveli District. Learned Judicial Magistrate appreciating the evidence adduced granted a monthly maintenance of Rs.7,500/- to the 1st daughter and Rs.5,000/- to the 2nd daughter.

5.Aggrrieved, the children's father filed Crl.R.C.(MD)No.89 of 2015. While his daughters have filed Crl.R.C.(MD)No.432 of 2016 asking more amount from their father.

6.Practically, it has become a fight between a father and his daughters. The daughters plead for more maintenance, while their father fights as against grant of maintenance to them. It is father Vs. daughters.

7.It has been contended by the learned counsel for the father / Alagu Karuppu that he has married one Senthiltamil Sundari and through her, he is also having a daughter, who is now 1 year old. He has to maintain them. After deductions, he receives only a less amount. In the circumstances, he is not in a position to pay maintenance amount of Rs.7,500/- + Rs.5,000/- = Rs.12,500/- per month.

8.On the other hand, the learned counsel for the daughters submits that they are all school going children and the first daughter is now undergoes +1 course. The expenses are growing. Therefore, the quantum need to be increased. He would also submit that the trial court has passed the order of maintenance giving



effect only from the date of passing the order. He would also submit that no reason has been assigned in the impugned order as to why maintenance has been given effect from the date of order instead of her date of the filing of the petition.

9. In this connection, the learned counsel for the father would submit that the children's mother was also a Government servant. She died in harness. There were many benefits, which goes to the benefit of the daughters. In the circumstances, while ordering maintenance, the trial court has ordered payment of the same only with effect from the date of the passing of the order.

10. The learned counsel for the respondent replied that there is no material to show their mother was employed and her daughters have received amounts from the employer.

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

12. Alagu Karuppu is stated to have married second time. It is stated that he has become a father. Now he has become father of three daughters.

13. It is pertinent to note that the daughters are growing and their expenses are also growing. So also periodically the salary of Alagu Karuppu by way of his annual increment and half yearly increase in his Dearness Allowance (D.A.). Naturally, the amount of maintenance must also grow.

14. Because Alagu Karuppu has taken one more wife, only after the death of his first wife and he has also one more daughter through his newly married wife. He must take care of that family also. But at the same time, he must meet the genuine expenses of his daughters, who are born to him through his first wife. There is no material to show that his wife died as Government servant and no material to show that her daughters have received any amount from her department. The expenses of the 1st daughter, who is studying +1 course understandably, will be more. In such circumstances, it has to be increased to a reasonable level. So far as the 2nd child is concerned, she is studying in 6th standard now, if we increase it, it will have a financial strain on Alagu Karuppu.

15. The maintenance petition was filed in the year 2012. The trial court passed the order on 22.12.2015. It is pertinent to note that the children's mother died a terminally ill person. Her medical expenses would have been more. Although the Trial Court has not given any reason to give effect to its order from the date of its order in view of the special facts noted above, we uphold the court's order giving effect to the maintenance order from the date of passing the maintenance order.

16. In view of the above, it is ordered as under:
<https://hcservices.ecourts.gov.in/hcservices/>

The maintenance amount of 1st petitioner, namely, Judi Akslin is



raised from Rs.7,500/- to Rs.8,500/- per month from the date of filing of this revision i.e., from 13.04.2016. Accordingly, these Criminal Revisions are disposed of. Consequently, connected C.M.P.is closed.

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Sd/-

Assistant Registrar (AS)

Sub Assistant Registrar

To

The Judicial Magistrate, Ambasamuthiram, Tirunelveli District.

+1 CC to Mr.J.BARATHAN, Advocate, SR No.46216

+1 CC to Mr.M.JEGADEESH PANDYAN , Advocate, SR No.46662

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nbj

SH/GSV-PM:15.09.2016:4P/4C