

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.09.2017

CORAM

THE HON'BLE MR. JUSTICE **R.SURESH KUMAR**

Crl.R.C.No.1187 of 2017

Crl.M.P.Nos.11353 & 11354 of 2017

1. A.Subashini

2. Ruhitha

Minor represented by
Mother and Guardian
A.Subashini

...Petitioners

Vs.

K.Raajesh Kanna

...Respondent

Prayer:- Petition filed under Section 397 & 401 of the Criminal Procedure Code, 1973 praying to call for the record in C.M.P.No.1123 of 2017 in M.C.No.1 of 2017, on the file of the Learned Judicial Magistrate, Ambattur, Chennai and set-aside the order dated 06.06.2017 made therein.

For Petitioners : Mr.I.Lakshmana Shankar

ORDER

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This revision case has been filed against the order dated 06.06.2017 passed by the learned Judicial Magistrate, Ambattur, Chennai in C.M.P.No.1123 of 2017 in M.C.No.1 of 2017.

2. The first petitioner is the wife and the second petitioner is the minor child of the respondent. These petitioners have filed the above said maintenance case in M.C.No.1 of 2017 before the learned Judicial Magistrate, Ambattur, Chennai seeking maintenance from the respondent/husband.

3. During the pendency of the said M.C.No.1 of 2017, a petition has been filed by the petitioners in C.M.P.No.1123 of 2017 seeking interim maintenance. The learned Judge, after considering the facts and circumstances of the case and after hearing the parties, has passed an order dated 06.06.2017, which is impugned herein, whereby the learned Judge directed the respondent/husband to pay a sum of Rs.7,000/- (Rupees Seven thousand only) per month to the second petitioner/child as interim maintenance, till the disposal of main application. The said order has not granted interim maintenance to the first petitioner/wife, because of the reason that admittedly, the first petitioner/wife is working as an Assistant Lecturer in a College, where she is earning a monthly salary of Rs.34,000/- (Rupees Thirty four thousand only). In view of the said position, as the wife is an earning member and she can maintain herself,

the learned Judge had granted an interim order directing the respondent/husband, who is the father of the second petitioner/child, to pay the maintenance at the rate of Rs.7,000/-(Rupees seven thousand only) per month only to the second petitioner/child.

4. The learned counsel appearing for the petitioners assailing this order, made his submission that, apart from the salary, the respondent/husband is earning a lot by way of private practice as a Doctor. Therefore, based on such income of the respondent/husband, the learned Judge ought to have ordered interim maintenance to be paid even to the first petitioner/wife also. This aspect, since has not been taken into account by the learned Judge, the learned counsel would state that, the present impugned order is assailed in this revision.

5. I have heard the said arguments made by the learned counsel appearing for the petitioner and also gone through the impugned order in this case.

6. The learned Judge after having taken note of the prima facie case and also the evidence adduced before the trial Court and also

considering the earning capacity of both the first petitioner as well as respondent has come to the right conclusion. Since the first petitioner/wife is an earning member, as she is getting, admittedly, Rs.34,000/- as salary per month, she has not got any order for interim maintenance to her. However, the learned Judge considered the aspect that the second petitioner/child is going to school and in this regard the child has to be maintained by the husband as well as the wife jointly and since both are earning members, the learned Judge has come to the right conclusion through the impugned order, as an interim measure, that the respondent/husband shall pay a sum of Rs.7,000/- towards maintenance of child.

7. The said amount of Rs.7,000/-, in the opinion of this Court, is not a lesser amount and it can be treated as adequate amount for the time being as interim arrangement to maintain the second petitioner, who is a school going child.

8. This Court comes to this conclusion, because of the reason that, in the connected case, where the petitioner has also challenged the order passed by the learned Judge parallelly in similar miscellaneous petition seeking payment of school fee to the second petitioner/child,

similar order has been passed and the same is going to be dealt with by this Court separately. This conclusion arrived at by the learned Judge in the present impugned order, directing the respondent to pay a sum of Rs.7,000/- towards interim maintenance to the second petitioner/child is absolutely justifiable and sustainable at this juncture.

9. In view of the aforesaid facts and circumstances, this Court is of the opinion that no impropriety or illegality is attached with the impugned order and hence this criminal revision case fails and accordingly it is dismissed. Consequently, connected miscellaneous petitions are also closed.

07.09.2017

Speaking/non speaking order
Index :Yes/No

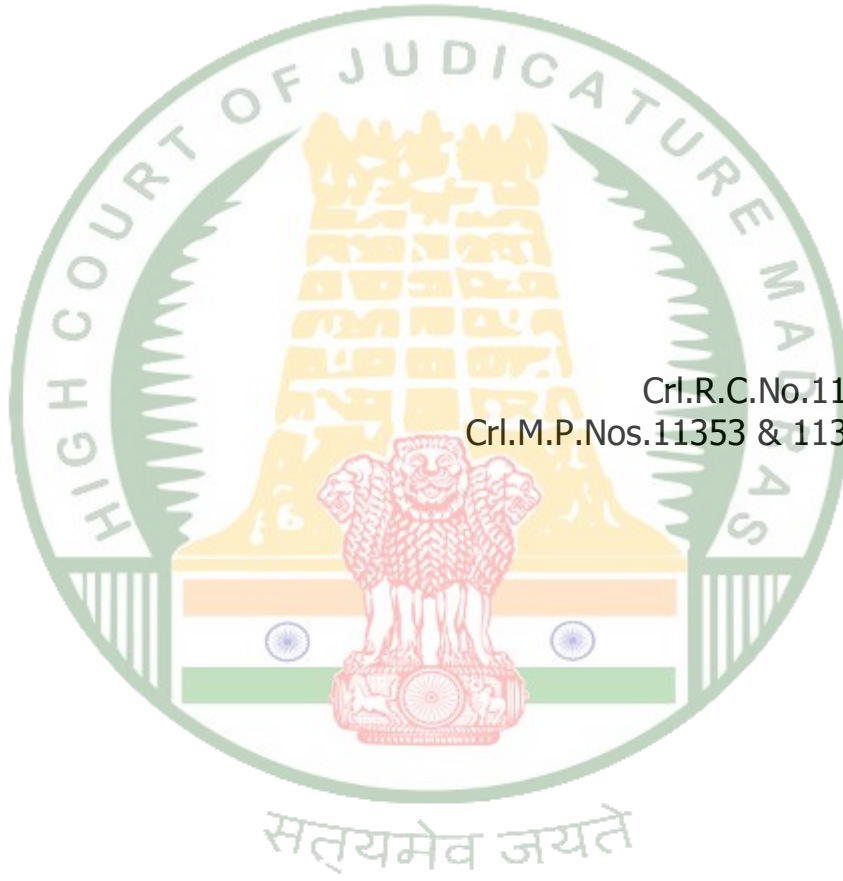
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To
The Presiding Officer,
The Judicial Magistrate Court,
Ambattur, Chennai.

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R.SURESH KUMAR

rts



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